

MAY 9, 2006 AGENDA REPORTS

Agenda Item No. 5a.

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0469

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Sanitary Sewer in Harvest Ridge Addition (west of Maize, south of 31st St. South) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On July 15, 2003, the City Council approved a Petition to construct a sanitary sewer in Harvest Ridge Addition with the total cost assessed to the improvement district. It has since been determined that part of the sewer system will function as a sanitary sewer main to serve areas outside the improvement district. The developer has submitted a new Petition to modify the budget to provide Sanitary Sewer Utility funding for a 14.19% of the project cost. The Utility share represents 50% of the cost of the pipeline that is sized as a sewer main. The signature on the new Petition represents 100% of the improvement district.

Analysis: The project will serve a new residential development located west of Maize, south of 31st St. South.

Financial Considerations: The existing Petition totals \$166,000 with the total paid by special assessments. The new Petition totals \$166,000 with \$142,500 assessed to the improvement district and \$23,500 paid by Sanitary Sewer Utility Funds.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 5b

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0470

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Sanitary Sewer in Emerald Bay Estates Addition (west of West Street, north of 21st) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On January 24, 2006, the City Council approved a Petition to construct a sanitary sewer in Emerald Bay Estates Addition. An attempt to award a contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the new Petition represents 100% of the improvement district.

Analysis: The project will serve a new residential development located west of West Street, north of 21st Street.

Financial Considerations: The existing Petition totals \$563,000. The new Petition totals \$997,000. The funding source is special assessments.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 8a

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0471

TO: Mayor and City Council Members

SUBJECT: City Buildings and Facilities – On-Call Architectural Services
(All Districts)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Contract.

Background: Contracting for professional services is conducted per Administrative Regulation 1.2 (AR 1.2) which refers to projects as either Class B (Projects where consultant fees are below \$25,000) or Class A (Projects where consultant fees are over \$25,000). Every year the City has numerous small Class B projects involving remodeling or modifying City facilities that require architectural services. The practice has been to publish a Request for Proposal (RFP) and to contract for professional services following AR 1.2 on each project separately. On Class B projects, this is a very time consuming process for both City staff and the architects that can often be disproportional to the limited services required and the smaller fees involved.

Beginning with the 2005 CIP, funds have been allocated to Facility Space Utilization/Ergonomic Improvements and to City Facilities ADA Compliance with additional allocations programmed for the coming years. Both of these CIP allocations are creating many new Class B projects. When combined with the numerous Class B projects that normally occur based on other funding sources, the total number of separate projects makes doing an RFP for each project very time consuming.

A common practice for large organizations with a multiplicity of small projects needing architectural services is to retain an architectural firm on an on-call basis. Services provided by the architect may vary greatly from project to project depending on the issues involved. Valuable time and money is saved by eliminating the time consuming RFP process for each small project. Sedgwick County, USD 259, Wichita State University and McConnell AFB are examples of local governmental entities currently using on-call architectural services.

Analysis: On October 10th, 2005, Purchasing issued RFP No. FP500080 – Architectural Services for Office Remodeling Layouts. The Staff Screening and Selection Committee narrowed the list of 5 respondents to 3 firms based on their proposed fees and ability to do the work in a timely manner. The 3 firms were McCluggage Van Sickle and Perry, Spangenberg Phillips and Architectural Innovations. Telephone interviews were conducted with the 3 firms, and McCluggage Van Sickle and Perry (MVP) was selected. In order to begin work on several projects in City Hall as quickly as possible, a short-term contract was approved by the City Manager and executed with MVP in the amount of \$15,000.

Due to the large number of Class B projects being scheduled for 2006 and beyond, Purchasing has recommended that the City contract with MVP for on-call architectural/engineering services for Class B projects. This contract will be limited to projects with professional fees not to exceed \$25,000 on an as-needed basis for one year, and with total fees for all projects not to exceed \$250,000 per year. The contract will have a renewal option for one year that may be exercised at the City's option. Professional Services for all Class A projects with professional fees over \$25,000 will continue to be contracted for individually following AR 1.2. The City reserves the right to contract some Class B projects to other firms in compliance with AR 1.2 when doing so is determined to be in the City's best interest.

Financial Considerations: The Contract will not obligate the City to use the on-call architects for any specific project. On City projects where architectural services are required, the architectural fees become a portion of the total cost of that project. Architectural services are only used on projects that have approved funding and have been assigned an OCA number. The on-call architects will be required to provide a fee quotation that must be reviewed and approved by the appropriate City staff prior to being given authorization to begin work on any project. The total volume of architectural fees under this contract will depend on the total number of Class B projects and the types of projects that are approved and assigned to the on-call firm. However, the total fees on all projects will not exceed a maximum of \$250,000 per year.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendation/Action: It is recommended that the City Council approve the Contract and authorize the necessary signatures.

Agenda Item No. 8b

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0472

TO: Mayor and City Council

SUBJECT: Tennis Services and Management For The Ralph Wulz Tennis Center
(District VI)

INITIATED BY: Department of Park and Recreation

AGENDA: Consent

Recommendation: Approve the contract.

Background: The operational services and management of the Ralph Wulz Riverside Tennis Center have been contracted out since 2001. The City is currently under contract with Mr. Jack Oxler. Mr. Oxler has provided professional tennis services for the past three years. The current tennis contract is scheduled to expire May 31, 2006.

Analysis: A request for proposal (RRP 600039) to provide for a Tennis Professional and Management Services of the Ralph Wulz Riverside Tennis Center was issued earlier this year. The RFP was sent out to six (6) professional tennis service providers and was advertised in the newspaper. Only one provider responded to the RFP. The proposal submitted by Mr. Jack Oxler meets the RFP criteria in terms of qualifications, experience, references and ability to provide professional tennis management services.

Financial Considerations: Implementation of the contract's terms may be achieved with no net increase to the basic operational costs. The new contract will be for June 1, 2006 to May 31, 2007 with an option to renew the contract under the same terms and conditions for two (2) successive one-year periods by mutual agreement of the parties.

Legal Considerations: The Law Department has reviewed and approved the contract as to form.

Recommendations/Actions: It is recommended that the City Council: 1.) Approve the selection of Mr. Oxler; and 2.) Authorize necessary signatures.

Agenda Item No. 8c

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0473

TO: Mayor and City Council Members

SUBJECT: Supplemental Agreement for Staking in Country Hollow Addition (south of Kellogg, east of 127th Street East) (District IV)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Supplemental Agreement.

Background: The City Council approved the storm water drainage improvements in Country Hollow Addition on November 8, 2005. On February 14, 2006 the City approved an Agreement with MKEC Engineering Consultants, Inc. (MKEC) to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering and staking services if requested by the City.

Analysis: The proposed Supplemental Agreement between the City and MKEC provides for staking the improvements. Due to the current workload created by previous projects, City crews are not available to perform the staking for this project.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$33,000 and will be paid by special assessments.

Legal Considerations: The Supplemental Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Supplemental Agreement and authorize the necessary signatures.

*Attachments: Supplemental Agreement

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES
DATED FEBRUARY 14, 2006 BETWEEN THE CITY OF WICHITA, KANSAS, PARTY OF THE
FIRST PART, HEREINAFTER CALLED THE "CITY" AND MKEC ENGINEERING
CONSULTANTS, INC., PARTY OF THE SECOND PART, HEREINAFTER CALLED THE
"ENGINEER"

WITNESSETH:

WHEREAS, there now exists a Contract (dated February 14, 2006) between the two parties covering engineering services to be provided by the ENGINEER in conjunction with the construction of improvements in COUNTRY HOLLOW ADDITION (south of Kellogg, east of 127th Street East).

WHEREAS, Paragraph IV. B. of the above referenced Contract provides that additional work be performed and additional compensation be paid on the basis of a Supplemental Agreement duly entered into by the parties, and

WHEREAS, it is the desire of both parties that the ENGINEER provide additional services required for the PROJECT and receive additional compensation (as revised herein):

NOW THEREFORE, the parties hereto mutually agree as follows:

A. PROJECT DESCRIPTION

The description of the improvements that the CITY intends to construct and thereafter called the "PROJECT" as stated on page 1 of the above referenced agreement is hereby amended to include the following:

STAKING AND AS-BUILT

(as per the City of Wichita Standard Construction Engineering Practices)

STORM WATER DRAIN NO. 280 serving Lots 1 through 24, Block 1; Lots 1 through 38, Block 2; Lots 1 through 20, Block 3; Lots 1 through 28, Block 4; Lot 1, Block 5, Country Hollow Addition and Unplatted Tracts (south of Kellogg, east of 127th Street East) (Project No. 468 84113).

Construction staking and final as-built of all areas included in the project mass grading plan will be the responsibility of the ENGINEER, with final as-built plans submitted and sealed by a licensed land surveyor or registered professional engineer. Minimum construction staking shall consist of the following: grade stakes set at 50 foot centers in tangent sections, and 25 foot centers through curve sections, at the street centerline (to match CL street stationing per paving plans); both right-of-way lines (at lot corners); back lot/easement lines (at lot corners); as well as any other grade break lines. Grade stake cuts and fills shall be to the dirt grade as required by the mass grading plan details, and shall not be set for final pavement grade, nor to actual final subgrade elevation. Final elevations for all areas outside the street right-of-way to be graded per plans, provisions or otherwise, including lots, easements, ponds and reserve areas, shall be within +/-0.2' of plan call-outs, unless otherwise stated in plans or provisions. Final elevations within the street right-of-way shall be within +/-0.1' of plan call-outs. The ENGINEER will be responsible to provide initial as-built(s) to the City's Project

Engineer, who will coordinate any rework with the contractor. The ENGINEER'S survey and as-built generation responsibilities will include re-checking all points deemed to be out of compliance by the City project engineer, regardless of the number of times to achieve compliance. Two copies of the project specific mass grading and pond construction plan sheets will be submitted to the Project Engineer within 5 days of completion of final grading, will show original plan and final as-built elevations at all original call-out locations. Submittals will include both standard plan sheets as well as an electronic file.

B. PAYMENT PROVISIONS

The lump sum fee and the accumulated partial payment limits in Section IV. A. shall be amended as follows:

Payment to the ENGINEER for the performance of the professional services as outlined in this supplemental agreement shall be made on the basis of the lump sum fee specified below:

468 84113 \$33,000.00

C. PROVISIONS OF THE ORIGINAL CONTRACT

The parties hereunto mutually agree that all provisions and requirements of the existing Contract, not specifically modified by this Supplemental Agreement, shall remain in force and effect.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this Supplemental Agreement as of this _____ day of _____, 2006.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

ATTEST:

Karen Schofield, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANTS, INC.

(Name & Title)

Agenda Item 8d

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0474

TO: Mayor and City Council

SUBJECT: Renewal of Food Service Establishment Inspection Contract
with Kansas Department of Health and Environment

INITIATED BY: Department of Environmental Services

AGENDA: Consent

Recommendation: Approve renewal of the contract with the Kansas Department of Health and Environment (KDHE) for food service establishment inspections.

Background: The Environmental Health Department has conducted inspections of food service establishments within Sedgwick County on behalf of the KDHE for over twenty-five years. Local staff enforces state regulations and utilizes state enforcement mechanisms as appropriate. KDHE remits eighty percent of license revenue (as established by Kansas statute) to the City, and provides enforcement assistance and training for local staff. KDHE has proposed renewal of this contract for state fiscal year 2007 (July 1, 2006 through June 30, 2007.)

Analysis: Contract inspections by local entities reduce duplication of effort, provide a single source of contact for industry and citizens, and contribute substantially to local food protection budgets. Use of KDHE regulations and enforcement procedures promotes consistency with other jurisdictions within the state.

Financial Considerations: Staff estimates the value of the contract at approximately \$320,000 annually, representing the major funding source for local food protection activities. A similar contract with the Kansas Department of Agriculture for inspections of food service establishments located in retail food stores is projected to yield approximately \$41,000, and \$42,000 is projected from the sale of City grocery and food processor licenses.

Legal Considerations: The Department of Law has reviewed the contract, and approved it as to form.

Recommendations/Actions: It is recommended that the Council approve the contract with the Kansas Department of Health and Environment, and authorize the appropriate signatures.

Agenda Item No. 9a

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0475

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Krug North 2nd Addition (north of 21st, west of 143rd Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and paving improvements in Krug North 2nd Addition on August 2, 2005.

Analysis: The proposed Agreement between the City and Baughman Company, P.A. provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Krug North 2nd Addition. Per Administrative Regulation 1.10, staff recommends that Baughman be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to Baughman will be on a lump sum basis of \$47,000 and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

*Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS
and BAUGHMAN COMPANY, P.A. for KRUG NORTH 2ND ADDITION

THIS AGREEMENT, made this _____ day of _____, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 90096 serving Lots 1 through 17, Block A; Lots 43 through 48, Block C; Lots 1 through 20, Block E, Krug North 2nd Addition (north of 21st, west of 143rd Street East) (Project No. 448 90096).

LATERAL 379, FOUR MILE CREEK SEWER serving Lots 1 through 9, Block A; Lots 12 through 17, Block A; Lots 1 through 20, Block E, Krug North 2nd Addition (north of 21st, west of 143rd Street East) (Project No. 468 84055).

24TH STREET NORTH from the east line of Lot 18, Block A, east to the east line of the plat; QUINCY CIRCLE from the north line of 24th Street North, north to and including the cul-de-sac and on NORTH SPRINGDALE CIRCLE from the north line of 24th Street North, north to and including the cul-de-sac; and on NORTH SPRINGDALE CIRCLE from the south line of 24th Street North, south to and including the cul-de-sac and that sidewalk be constructed along one side of 24th Street North (north of 21st, west of 143rd Street East) (Project No. 472 84250).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Krug North 2nd Addition and to perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 90096	\$ 9,600.00
Project No. 468 84055	\$10,600.00
Project No. 472 84250	<u>\$26,800.00</u>
TOTAL	\$47,000.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL
Carlos Mayans, Mayor

SEAL:

ATTEST:
Karen Sublett, City Clerk

APPROVED AS TO FORM:
Gary Rebenstorf, Director of Law

BAUGHMAN COMPANY, P.A.
(Name & Title)

"EXHIBIT "A

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT's plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Complete and deliver field notes, plan tracings, specifications and estimates to the CITY within the time allotted for the PROJECTS as stipulated below.
 - a. Plan Development for the water improvements by May 29, 2006.
(Project No. 448 90096).
 - b. Plan Development for the sewer improvements by May 29, 2006.
(Project No. 468 84055).
 - c. Plan Development for the paving improvements by June 26, 2006.
(Project No. 472 84250).

Agenda Item No. 9b

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0476

TO: Mayor and City Council Members

SUBJECT: Agreement for Design Services for Woodland Lakes Estates 3rd & 4th Additions (south of Lincoln, west of 127th Street East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Agreement.

Background: The City Council approved the water distribution system, sanitary sewer and paving improvements in Woodland Lakes Estates 3rd & 4th Additions on September 21, 2004.

Analysis: The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water distribution system, sanitary sewer and paving in Woodland Lakes Estates 3rd & 4th Additions. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Financial Considerations: Payment to MKEC will be on a lump sum basis of \$32,700 and will be paid by special assessments.

Legal Considerations: The Agreement has been approved as to form by the Law Department.

Recommendation/Action: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

*Attachments: Agreement

AGREEMENT for PROFESSIONAL SERVICES between THE CITY OF WICHITA, KANSAS
And MKEC ENGINEERING CONSULTANTS, INC. for WOODLAND LAKES ESTATES 3RD
& 4TH ADDITIONS

THIS AGREEMENT, made this _____ day of _____, 2006, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING CONSULTANTS, INC., party of the second part, hereinafter called the "ENGINEER".

WITNESSETH: That

WHEREAS, the CITY intends to construct;

WATER DISTRIBUTION SYSTEM NO. 448 89788 serving Lots 31 through 34, Block 4, Woodlawn Lakes Estates 3rd Addition; Lots 33 through 56, Block 1, Woodland Lakes Estates 4th Addition (south of Lincoln, west of 127th Street East) (Project No. 448 89788).

LATERAL 346, FOUR MILE CREEK serving Lots 31 through 34, Block 4, Woodlawn Lakes Estates 3rd Addition; Lots 40 through 48, and Lots 51 through 56, Block 1, Woodlawn Lakes Estates 4th Addition (south of Lincoln, west of 127th Street East) (Project No. 468 83589).

ZIMMERLY from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition, to the east line of Lot 56, Block 1, Woodland Lakes Estates 4th Addition; ZIMMERLY COURT serving Lots 45 through 52, Block 1, Woodland Lakes Estates 4th Addition, from the south line of Zimmerly to and including the cul-de-sac; ZIMMERLY COURT serving Lots 31 through 34, Block 4, Woodland Lakes Estates 3rd Addition, from the north line of Zimmerly to and including the cul-de-sac; ZIMMERLY COURT serving Lots 33 through 43, Block 1, Woodland Lakes Estates 4th Addition, from the south line of Zimmerly to and including the cul-de-sac; with a sidewalk on one side of Zimmerly from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition, to the east line of Lot 56, Block 1, Woodland Lakes Estates 4th Addition (south of Lincoln, west of 127th Street East) (Project No. 472 83718).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements in Woodland Lakes Estates 3rd & 4th Additions and perform the PROJECT tasks outlined in Exhibit A.

II. IN ADDITION, THE ENGINEER AGREES

A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in the SCOPE OF SERVICES (Exhibit A).

B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.

C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.

D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.

F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.

G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.

H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.

I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.

J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$5,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

III. THE CITY AGREES:

A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.

B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit A.

C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.

E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.

F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the lump sum fee amount specified below:

Project No. 448 89788	\$ 5,500.00
Project No. 468 83589	\$ 5,200.00
Project No. 472 83718	\$22,000.00
TOTAL	\$32,700.00

B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:

1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
2. Additional design services not covered by the scope of this agreement.
3. Construction staking, material testing, inspection and administration related to the PROJECT.
4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.

B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.

C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.

E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.

F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.

G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.

H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

Carlos Mayans, Mayor

SEAL:

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary Rebenstorf, Director of Law

MKEC ENGINEERING CONSULTANT, INC.

(Name & Title)

EXHIBIT "A"

SCOPE OF SERVICES

The ENGINEER shall furnish engineering services as required for the development of plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering plans shall be prepared in ink on standard 22" x 36" Mylar sheets.

In connection with the services to be provided, the ENGINEER shall:

A. PHASE I – PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Soils and Foundation Investigations. The CITY'S Engineering Division of the Department of Public Works shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
3. Review Preliminary Design Concepts. Submit preliminary design concepts for review with the City Engineer or his designated representative prior to progressing to detail aspects of the work unless waived by the City Engineer.
4. Prepare engineering plans, plan quantities and supplemental specifications as required. Engineering plans will include incidental drainage where required and permanent traffic signing. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulations 78, "Cleanup, Restoration or Replacement Following Construction." Also, final plans, field notes and other pertinent project mapping records are to be provided to the CITY via floppy diskettes (3 1/2"), CD-ROM, or other media acceptable to the City Engineer. The files are to be AutoCAD drawing files or DXF/DXB files. Layering, text fonts, etc. are to be reviewed and approved during the preliminary concept development phase of the design work. Text fonts other than standard AutoCAD files are to be included with drawing files. In addition to supplying the electronic files of the AutoCAD drawing files of the final plans, ENGINEER will also need to supply electronic files of the drawings in PDF format.
5. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way easements. This shall include the monumentation of new corners for any additional right-of-way and a one time marking of the right-of-way for utility relocations.
6. Identify all potential utility conflicts and provide prints of preliminary plans showing the problem locations to each utility. ENGINEER shall meet with utility company representatives to review plans and coordinate resolution of utility conflicts prior to PROJECT letting or, if approved by the City Engineer, identify on plans conflicts to be resolved during construction. Provide to CITY utility status report identifying utility conflicts with dates by which the conflicts will be eliminated with signed utility agreements from each involved utility company. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction that were not identified and coordinated during design.
7. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.
8. All applicable coordinate control points and related project staking information shall be furnished on a 3-1/2" diskette in a format agreed upon by the CITY. When applicable, this coordinate information will be used by the CITY for construction staking purposes.
9. Project Milestones. The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans (including final tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below and generally in accordance with the project bar chart attached to Exhibit A; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
 - a. Plan Development for the water improvements by 120 days from notice to proceed. (Project No. 448 89788).
 - b. Plan Development for the sewer improvements by 120 days from notice to proceed. (Project No. 468 83589).
 - c. Plan Development for the paving improvements by 120 days from notice to proceed.

Agenda Item No. 10

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0477

TO: Mayor and City Council

SUBJECT: Contract for Indigent Defense Services

INITIATED BY: Municipal Court

AGENDA: Consent Agenda

Recommendation: Approve Maughan Hitchcock LC Law Firm as the Indigent Defense Services Provider.

Background: The City is required to provide legal defense to persons accused of a crime when they cannot afford to hire a private attorney. By ordinance, the Administrative Judge has the authority to maintain a list of qualified attorneys who will be assigned cases at a fee set by the ordinance. Additionally, the court is allowed by ordinance 1.04.210 to contract with attorneys to provide all indigent defense services subject to Administrative Regulation 7d. For the past nine years the Court has provided indigent defense services contractually. In the Year 2005, the services of appointed legal counsel were provided in approximately 7,000 cases for approximately 5,000 defendants.

Analysis: Recently the Court requested proposals from the legal community to represent indigent defendants. Three responses to the proposal were received. In accordance with Administrative Regulation 1.2 a staff screening and selection committee was formed to evaluate the responses and to select a vendor to provide the indigent defense services. The screening committee selected Maughan Hitchcock LC Law Firm to provide these services.

A minimum of three defense attorneys will provide indigent defense services five days per week. This five-day workweek will allow for integration of public defender cases with the regular Municipal Court case dockets excluding the first Fridays of the month and regular holidays. This service will also be provided to the indigent clients housed in the Sedgwick County Detention Facility with Municipal Court charges, and a defense attorney will be a "team-member" of the Drug Court Diversion Program. Additionally, the attorneys will meet with indigent defendants in their office located at 200 West Douglas, Suite 350. The indigent defense attorney will be available in person and by telephone to answer questions and discuss their clients' cases.

Financial Considerations: The 2006 adopted budget for this contract is \$263,600 but the responses to the request for proposal were substantially higher, ranging from \$325,000 to \$370,000. It is noted, however, that the contractual budgeted amount has not increased since the year 1997. To help offset the costs of providing public defender services, a \$4 public defender fee is included in court costs for each case convicted in Municipal Court. By year-end 2006, it is expected this fee will generate \$255,000. Additional collections are generated through an indigent defendant co-pay fee. This revenue is expected to total \$60,000 for a total of \$315,000 generated through public defender co-pay's and court costs. With approval of this contract, the increased General Fund cost will be incorporated in the Revised Budget for Municipal Court.

Legal Considerations: The contract will be approved as to form by the Law Department.

Recommendation/Action: It is recommended the City Council approve the vendor Maughan Hitchcock, LC as the Indigent Defense Service Provider, authorize staff to negotiate the contract with a not to exceed dollar amount of \$317,000 and authorize the necessary signatures.

Agenda Item No. 11

City of Wichita

City Council Meeting

May 9, 2006

Agenda Report No. 06-0478

TO: Mayor and City Council Members

SUBJECT: 2007 Community Services Block Grant Discretionary Fund Application

INITIATED BY: City Manager's Office

AGENDA: Consent

Recommendation: Approve the application and authorize the Mayor to sign.

Background: The Community Services Block Grant (CSBG) is a federal program targeted to the needs of the low-income. In addition to the formula funds granted to the City of Wichita by the State of Kansas Housing Resources Corporation, CSBG Discretionary Funds have become available through a competitive Request for Proposal. The proposal is due on May 12, 2006.

Analysis: The City Manager's Career Development Office (CDO) is responsible for administration of the CSBG formula funds. The CDO also provides employment services to several hundred welfare recipients each year through a purchase of services agreement with the Kansas State Department of Social and Rehabilitation Services. Many of these clients are diverted from their job search and retention efforts by problems within their families and social circles.

To address these problems, the CDO has prepared a proposal for \$64,000 of CSBG Discretionary Funds to train eight of its current professional staff in Marriage, Family, and Relationship counseling skills. The staff's use of these skills with their clients will result in outcomes of:

- increased client engagement in their CDO services as marriage, family, and relationship problems are recognized and resolved,
- an increase in the number of clients ready for employment,
- an increase in the parenting skills of the clients.

Financial Considerations: No general operating funds from the City's budget are obligated by the application. The proposal budgets:

- \$30,746 in staff time for training, then incorporating the new marriage, family and relationship component into individual counseling and group workshops,
- \$20,000 for two consultants, five days each to train staff,
- the balance for materials, supplies, software, and printing.

Legal Considerations: The CSBG Review Committee met on April 26, 2006 to consider the Application and voted unanimously to recommend approval by the City Council.

Recommendation/Action: It is recommended that the City Council approve the proposal for 2007 Community Services Block Grant Discretionary Funds and authorize the Mayor to sign.

Agenda Item No. 12

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0479

TO: Mayor and City Council

SUBJECT: Water Distribution Inventory Budget

INITIATED BY: Water & Sewer Department

AGENDA: Consent

Recommendation: Approve the adjusted budget.

Background: The Water Utility has an annual inventory budget of \$1.3 million, managed by the Water Distribution division. This budget allows the division to maintain an inventory of materials and small equipment used on a daily basis, and to take advantage of bulk purchases.

As materials and equipment purchased through inventory are used, the cost is transferred to the correct Organizational Cost Account (OCA) in either the Operating budget or the CIP budget, and to the correct Object Level (OL3). The Operating budget includes both the inventory and expense budgets, but at year-end the expense is recorded only in the correct OCA and OL3, rather than in the inventory budget. Nothing is purchased through inventory that is not also budgeted in either the Operating budget or the CIP budget.

Analysis: CIP project W-552, AMR Implementation Phase II, was approved by the City Council on December 13, 2005, with a budget of \$2.9 million with approximately \$1 million allotted for automated meters. The meters are initially purchased through the inventory budget so that they can be properly accounted for and so that there are not two sets of meters --- one set purchased through inventory and one set purchased through the CIP project. The purchase of these meters, however, is depleting the inventory budget.

Financial Considerations: Increasing the inventory budget by \$1 million to allow the meters to be purchased through inventory will not increase actual expenditures.

Legal Considerations: City Council approval is required for budget adjustments.

Recommendations/Actions: It is recommended that the City Council approve increasing the inventory budget by \$1 million.

Agenda Item No. 13

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0480

TO: Mayor and City Council Members

SUBJECT: Waterline along Hoover, north of Zoo Boulevard (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the revised project budget.

Background: On May 21, 2002, the City Council approved a Petition to construct a waterline along Hoover, between Zoo Boulevard and 23rd St. North, and along 21st, from the K & O Railroad tracks to approximate ¼ mile east of Hoover. Based on the presence of high ground water and the need to increase the size of the pipe, there is not sufficient funding in the project budget to award a construction contract. Resolutions have been prepared to authorize a budget increase.

Analysis: The project will serve new development along the Hoover corridor north of Zoo Boulevard. It will also create the opportunity for existing residential areas on private water wells to petition for a City water distribution system in the future.

Financial Considerations: The existing project budget totals \$509,000 with \$160,535 assessed to the improvement district and \$348,465 paid by the Water Utility. The assessment to the improvement district has not changed. The current estimated project cost is \$1,100,000 with \$160,535 assessed to the improvement district and \$939,465 paid by the Water Utility.

Legal Considerations: The Department of Law has approved the authorizing resolutions as to legal form.

Recommendations/Actions: It is recommended that the City Council approve the revised project budget, adopt the Resolutions and authorize the necessary signatures.

Agenda Item No. 14

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0481

TO: Mayor and City Council

SUBJECT: Naming of Park Land at 11th and Indiana (District I).

INITIATED BY: Park and Recreation Department.

AGENDA: Consent

Recommendation: Approve the Park Name

Background: City Council Policy 13 delineates the requirements for naming public facilities "... in accordance with their intended use ...". The policy calls for a seven-member committee consisting of residents appointed by the Mayor and City Council to formulate the recommendation prior to City Council consideration. On March 4, 2003, the City Council approved the official naming committee to be the Board of Park Commissioners.

Analysis: The 0.30-acre parcel of land at the Southeast corner of 11th and Indiana was acquired in April 2005 with Community Development Block Grant funds as part of the McAdams Neighborhood Revitalization Project. A small neighborhood park was created to offer the neighborhood citizens leisure and recreational activities that include playground equipment, park benches, picnic table, trash receptacle, and landscaping.

On February 13, 2006, The Board of Park Commissioners unanimously voted, upon recommendation from the McAdams Neighborhood Association and District Advisory Board I, to recommend the City Council name the park "Paul Laurence Dunbar Park" after the noted poet and author.

Financial Considerations: None

Legal Considerations: None

Recommendations/Actions: It is recommended that the City Council approve naming the park "Paul Laurence Dunbar Park".

Agenda Item No. 15

CITY OF WICHITA
City Council Meeting
May 9, 2006

Agenda Report No. 06-0482

TO: Mayor and City Council Members

SUBJECT: Cross-Lot Drainage Agreement and Drainage Easement at East 21st Street
North and Jardine (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Grant the easement.

Background: On June 21, 2005, the City Council approved leasing a portion of the former Heart spring site at 2400 North Jardine to the Boys and Girls Club of South Central Kansas and TOP School North Charitable Foundation. These two organizations are building facilities to serve the community. As part of the agreements, the City committed to provide infrastructure improvements to support these projects.

Analysis: As part of the infrastructure, a cross-lot drainage easement is necessary to handle storm water drainage and cross-lot storm water runoff. While the City is the owner of the property, it is necessary that an easement be granted so that the easements become public record in case ownership was to transfer at some time in the future. To accomplish this, the attached easements have the City as owner formally granting the easements to the City at large.

Financial Considerations: There is no financial impact associated with granting the easement.

Legal Considerations: None.

Recommendation/Action: It is recommended that the City Council grant the easement and authorize all necessary signatures.

Agenda Item No. 16

CITY OF WICHITA
City Council Meeting
May 9, 2006

Agenda Report No. 06-0483

TO: Mayor and City Council Members

SUBJECT: Contract Extension for the Acquisition of a Portion of 7700 East Kellogg for the East Kellogg Improvement Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the contract amendment.

Background: On January 24, 2006, the City Council approved the acquisition of a portion of the property at 7700 East Kellogg, which is required for the planned East Kellogg/Rock Road Improvement Project. The property is improved with the Town East regional shopping mall and several free standing commercial buildings. The proposed improvements require 97,955 square feet. This includes 63,028 square feet of parking along Kellogg, 4,681 square feet of parking along Rock Road and 30,246 square feet of the sites currently occupied by a restaurant and a motel.

Analysis: The contract for the acquisition called for a closing on February 28 with two thirty-day extensions. Due to the complexity of the transactions, significant due diligence has been required. Both contractual extensions have been exercised to allow the completion of the pre-closing items. An additional extension of thirty days is required to complete the items required to allow the completion of this transaction.

Financial Considerations: There is no cost associated with the City. The acquisition costs remain the same as those approved on January 24.

Legal Considerations: The Law Department has approved the amendment as to form.

Recommendation/Action: It is recommended that the City Council approve the first amendment to contract for conveyance and exchange of real estate purchase and authorize all necessary signatures.

Agenda Item No. 17

CITY OF WICHITA
City Council Meeting
May 9, 2006

Agenda Report No. 06-0484

TO: Mayor and City Council Members

SUBJECT: Easement Across City Owned Property Near Pawnee and McLean in
Conjunction with the Improvement of Pawnee Avenue .
(Districts III and VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Grant the easement.

Background: The capital project to improve Pawnee from McClean to Broadway requires the relocation of the natural gas line currently located along the south side of the right of way of Pawnee. Due to space constraints, the line cannot be moved further south within the existing right-of-way. The most efficient option is to relocate the line in an easement that will extend from the southwest corner of Pawnee and McLean, under the Big Arkansas River and reconnecting with the existing line on the east side of the river.

Analysis: The easement area for the new line location lies totally within City right-of-way. Kansas Gas Service Company will be responsible for securing all permits required to relocate the line. They will also be responsible for boring and laying the actual service line. The initial construction will be done under a temporary blanket easement. Once the line is constructed, a permanent easement will be executed with the easement area exactly described based on the as-built description of the line.

Financial Considerations: There is no cost to the City.

Legal Considerations: The Law Department has approved the easements as to form.

Recommendation/Action: It is recommended that the City Council approve the temporary easement, authorize the execution of the permanent easement when appropriate and authorize all necessary signatures.

Agenda Item No. 19

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0485

TO: Mayor and City Council

SUBJECT: Abatement of Dangerous & Unsafe Structures (Districts I, III & IV)

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendation: Approve the assessments and ordinance.

Background: The Office of Central Inspection (OCI) supports neighborhood maintenance and improvement through abatement of public nuisances under Titles 18 and 20 of the City Code. State law and local ordinances allow the City to demolish or board up and secure private property that is in violation of Housing and Building Code standards, after proper notification of the responsible party/parties. A private contractor, or City staff performs the work, and the Office of Central Inspection bills the cost to the property owner.

Analysis: State law and City ordinance allow placement of the demolition and board-up costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the demolition and board up abatements in question, and OCI is requesting permission for the Department of Finance to process the necessary special assessments.

Financial Considerations: Statements of Charges will be mailed to the property owners on May 19, 2006. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the February 2006 bonds sold. The principal and interest will then be spread for 1-year and placed on the 2006 tax roll.

Legal Considerations: The assessments are in accordance with City Code 18.16.070, 18.16.080 and 18.16.090.

Recommendations/Actions: It is recommended that the City Council approve the proposed assessments and place the ordinance on first reading.

Property List – Special Assessments	Office of Central Inspection	Amount	District #
1501 North Fountain	demolition (condemnation)	\$4,165.65	I
1432 North Lorraine	demolition (condemnation)	\$6,157.36	I
1445 South Water	demolition (condemnation)	\$686.00	I
2215 North Minneapolis	emergency board-up	\$238.46	I
1440 North Fountain	emergency board-up	\$139.88	I
2026 North Volutsia	emergency board-up	\$117.27	I
4648 North Arkansas	emergency board-up	\$202.21	VI
1625 North Grove	emergency board-up	\$101.35	I
3242 North Brookfield	emergency board-up	\$48.66	I
1138 North Ash	emergency board-up	\$93.24	I
554 North Estelle	emergency board-up	\$116.83	I
1612 North Kansas	emergency board-up	\$107.62	I
1818 North Ash	emergency board-up	\$101.35	I
1954 North Ash	emergency board-up	\$117.82	I
1828 South Santa Fe	emergency board-up	\$252.11	III
417 W. Funston	demolition (condemnation)	\$9,682.00	IV
1848 N. New York	demolition (condemnation)	\$3,781.00	I
1802 S. Broadway	demolition (condemnation)	\$6,947.60	IV
352 South Sheridan	emergency board-up	\$43.19	IV
1645 North Mathewson	emergency board-up	\$436.12	I
1727 North Ash	emergency board-up	\$301.30	I
1725 North Ash	emergency board-up	\$355.76	I
1748 North Estelle	emergency board-up	\$369.99	I
1149 North St. Francis	emergency board-up	\$123.65	VI
1117 South Main	emergency board-up	\$347.07	I
2821 E. 13th St. N.	demolition (condemnation)	\$12,006.95	I
1227 N. Poplar	demolition (condemnation)	\$3,805.09	I
1135 N. Piatt	demolition (condemnation)	\$6,340.94	I
1223 N. Ohio	demolition (condemnation)	\$4,685.45	I
937 N. Wabash	demolition (condemnation)	\$4,063.00	I
2444 N. Minnesota	demolition (condemnation)	\$10,298.44	I
2444 North Minnesota	gas services removal	\$305.23	I
305 North Madison	demolition (condemnation)	\$13,950.58	I
2234 North Shelton	demolition (condemnation)	\$4,280.23	VI
1227 North Poplar	gas services removal	\$160.65	I
305 North Madison	gas services removal	\$876.75	I
2821 East 13th	gas services removal	\$1,265.67	I
1135 North Piatt	gas services removal	\$160.65	I
305 North Madison	gas services removal	\$305.23	I
1735 North Chautauqua	emergency board-up	\$133.87	I
4533 South Charles	emergency board-up	\$157.48	IV
1138 North Cleveland	emergency board-up	\$101.41	I
Total		\$97,931.11	

ORDINANCE NO.

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE (BUILDING CONDEMNATION) UNDER THE PROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite the following lots, herein specified, be and the same is hereby levied to pay the cost of removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance under the provisions of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, located and situated upon the following described property:

SECTION 2. The sum so assessed and apportioned against the lots herein before set out and not paid within 30 days from date of notice sent out by the Debt Management Office of the Department of Finance as provided by law, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year 2006 and shall be certified to the County Clerk and shall be levied and collected in the same manner as other taxes, and the Debt Management Office of the Department of Finance is hereby directed to give written notice to property owner(s) owning property assessed herein, as required by law.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED at Wichita, Kansas, this_____ of May 2006.

CITY OF WICHITA
Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form
Gary E. Rebenstorf, Director of Law

Agenda Item No. 21

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0486

TO: Mayor and City Council Members

SUBJECT: Petition to pave Merton, east of Seneca (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the Petition.

Background: The signatures on the Petition represent 3 of 5 (60%) resident owners and 41.5% of the improvement district area. District IV Advisory Board sponsored an April 5, 2006, neighborhood hearing on the project. The Board voted 8-2 to recommend approval of the project.

Analysis: The project will provide paved access to a developed commercial area located east of Seneca, south of Harry.

Financial Considerations: The estimated project cost is \$136,000 with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.48 per square foot of ownership.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 22

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0487

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Water Distribution System in Rainbow Lakes West Addition (south of Central, east of 135th St. West) (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the Petition.

Background: The signatures on the Petition represent 26 of 30 (86.7%) resident owners and 91% of the improvement district area. District V Advisory Board sponsored an April 3, 2006, neighborhood hearing on the project. The Board voted 8-0 to recommend approval of the project.

Analysis: The project will construct a water distribution system for a developed residential area located south of Central, east of 135th St. West.

Financial Considerations: The estimated project cost is \$75,000 with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties is \$3,947 per lot.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Recommendation/Action: It is recommended that the City Council approve the Petition, adopt the Resolution and authorize the necessary signatures.

Agenda Item No. 23

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0488

TO: Mayor and City Council

SUBJECT: DER2006-00005 - Proposed Unified Zoning Code Text Amendments to define “farmer’s markets,” specify supplementary use regulations for farmer’s markets, and add farmer’s markets as an allowable use in the “LC” Limited commercial, “OW” Office Warehouse, “GC” General Commercial, “IP” Industrial Park, “CBD” Central Business District, “LI” Limited Industrial, and “GI” General Industrial zoning districts.

INITIATED BY: Metropolitan Area Planning Department

AGENDA: New Business

MAPC Recommendations: Approve, subject to staff recommendations, vote (8-1).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Approve.

Background: A request for regulatory changes to allow outdoor farmer’s markets in LC Limited Commercial zoning districts for more than two days per month has been made to at least one City Council Member. There is interest among other City Council Members to define, guide and/or promote the direction and/or regulation of farmer’s markets.

At two recent City Council workshops, Council asked MAPD and OCI staff to present information on both current and suggested regulations for outdoor farmers markets. During the workshop presentation on February 14, 2006, Council requested that staff present the farmer’s market item to District Advisory Boards (DABs) for additional review and comment. Staff recently presented the draft proposals to the DABs and requested DAB feedback and public input. The proposed amendments have incorporated this input. The DAB memos and DAB summaries are attached.

Staff has also worked very closely with operators of existing farmer’s markets to ensure the proposed amendments will not overburden operators, yet will adequately provide for the health, safety and welfare of the general public.

Analysis: Farmer's markets are not specifically defined or regulated by either the Wichita-Sedgwick County Unified Zoning Code (UZC) or by City of Wichita "miscellaneous sale" or "transient merchant" licensing ordinances. Therefore, it requires UZC amendments and a new licensing ordinance to address this issue. Per current UZC requirements, outdoor farmer's markets are regulated as "outdoor business promotion and/or sales" (Sec. III-B.e.4). "Outdoor business promotions and/or sales" are limited in the LC Limited Commercial district to not more than two days per month. In less restrictive zoning districts, farmer's markets may occur for an unlimited number of days (provided certain other required City sales and/or vendor/business licenses are obtained).

General direction provided by the City Council with respect to outdoor farmer's markets includes the following:

- Should be defined and regulated in the UZC, and additionally controlled through local licensing
- Should focus primarily on agricultural products grown or raised by local or regional farmers
- Should allow for sale of home crafts, handicrafts and certain home-baked and prepared foods
- Should allow for some transient merchant vendors and other transient/mobile food vendors
- Should be allowed for more than two days per month in the LC zoning district (maximum of five days per month is suggested)

The proposed UZC amendments define "Outdoor Farmer's Market", establish minimum conditions/requirements for outdoor farmer's markets and operation and restrict outdoor farmer's markets to no more than five days per month in all zoning districts where they will be allowed (LC, OW, GC, CBD, LI and GI). The proposed amendments will apply only within the City of Wichita.

MAPC considered this case on April 6, 2006 and voted 8-1 for approval as proposed. There were no public comments either in favor or in opposition to the proposed amendments.

Financial Considerations: None.

Legal Considerations: The item has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Concur with the findings of the MAPC and adopt the text amendments and approve the first reading of the ordinance establishing the text amendments, or;
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a 2/3 majority vote of the membership of the governing body on the first hearing.)

ORDINANCE NO. _____

AN ORDINANCE PROVIDING AMENDMENTS TO SECTION II-B.4, SECTION III-B.14.b(3), SECTION III-B.15.b(3), SECTION III-B.16.b(3), SECTION III-B.17.b(3), SECTION III-B.18.b(3), SECTION III-B.19.b(3), SECTION III-B.20.b(3), SECTION III-D USE REGULATIONS SCHEDULE; AND ADDING SECTION III-D.6.jj OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 44-975, DEALING WITH FARMER'S MARKETS IN THE CITY.

WHEREAS, under the authority of K.S.A. 12-741, et seq., the City of Wichita desires to adopt amendments to the Wichita-Sedgwick County Unified Zoning Code pertaining to farmer's markets in the City; and

WHEREAS, by K.S.A. 12-770, the City of Wichita may adopt reasonable regulations for the development and operation of farmer's markets in the City, which constitute accessory uses; and

WHEREAS, the governing body of the City of Wichita finds and determines that the regulations set forth in this ordinance are reasonable regulations for the development and operation of farmer's markets in the City, which constitute accessory uses;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA;

SECTION 1. Section II-B.4. of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following:

Farmer's Market means an outdoor place or market area in the City of Wichita with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include dried flowers, crafts & handicrafts that are made in the home, original artwork and certain prepared foods as approved by the City of Wichita Environmental Services Department, or other applicable agency, such as baked goods, preserves, pickles and cheese.

SECTION 2. Section III-B.14.b. (LC Limited Commercial) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.14.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 3. Section III-B.15.b. (OW Office Warehouse) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.15.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 4. Section III-B.16.b. (GC General Commercial) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.16.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

III-B.14.b(3) Commercial Uses
Sexually oriented business in the County, subject to Sec. III-D.6.ff

SECTION 5. Section III-B.17.b. (IP Industrial Park) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.17.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 6. Section III-B.18.b. (CBD Central Business District) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.18.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 7. Section III-B.19.b. (LI Limited Industrial) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.19.b(3). Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 8. Section III-B.20.b. (GI General Industrial) of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following permitted use:

III-B.20.b(3) Commercial Uses
Farmer's market in the city, subject to Sec. III-D.6.jj

SECTION 9. Section III-D Use Regulations Schedule of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to read as follows add the following:

P = Permitted Use

C = Conditional Use

USE TYPE ZONING DISTRICTS

	RR	SF20	SF10	SF5	TF3	MF18	MF29	B	MH	NO	GO
	NR	LC	OW	GC	IP	CBD	LI	GI	conditions		
COMMERCIAL											

Farmer's market in the city D.6.jj

SECTION 10. Section III-D.6. of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition) as adopted by reference in Code Sec. 28.04.010 by Ordinance No. 44-975, is hereby amended to add the following:

III-D.6.jj Farmer's markets in the city. Farmer's markets, as defined by this Code, shall be allowed as an accessory use in the following zoning districts within the City of Wichita: LC, OW, GC, IP, CBD, LI, GI. The Zoning Administrator may authorize farmer's markets only in allowed zoning districts, subject to the following restrictions and limitations:

- (1) A farmer's market must be operated by a designated "market operator" who shall obtain a license or licenses as may be required, including Sec. 3.94 of the Code of the City of Wichita. Generally, sales of agricultural, farm, garden aquacultural products, or fruits grown within the State of Kansas by producers or growers and their agents are exempt from licensing under Section 3.95 of the Code of the City of Wichita.
- (2) Prior to issuance of required licenses, the market operator shall provide the Zoning Administrator with a site plan that clearly identifies: the approximate dimensions of the area being used, the proximity to buildings, parking lots, right-of-ways or other such areas, and a description of any structure, implement, stand, display prop, or other such items used for the farmer's market, including signs, banners or other attention getting devices. The Zoning Administrator shall approve the site plan prior to the issuance of required licenses.
- (3) A farmer's market shall not occupy any part of the required off-street parking space for the principal use unless such is indicated on the site plan and approved by the Zoning Administrator.

- (4) Vendors whose goods are primarily fresh produce, grains, fruits, garden aquacultural products or other agricultural products, including meat and dairy products shall account for no less than fifty percent of the total number of vendors in any single farmer's market.
- (5) Farmer's markets are temporary in nature and may operate no more than five (5) calendar days per month only Monday through Friday during the months of April through October and only between the hours of 6 a.m. and 9 p.m., with the exception of farmer's markets operated on city-owned property.
- (6) There shall be no permanent storage allowed upon the site, other than that approved for the principal use.
- (7) No additional lighting, other than that approved for the principal use, shall be allowed.
- (8) No additional signage, other than that approved for the principal use, shall be allowed; except, as shown in the site plan approved by the Zoning Administrator.
- (9) Proposed farmer's markets located within a Community Unit Plan, Protective Overlay or any other approved special district that does not allow the uses of the "LC" Limited Commercial zoning district or more intense shall not be licensed, except as authorized by way of Administrative Adjustment or applicable amendment.
- (10) Activities of such nature as to be considered an amusement ride, ride device, circus, carnival, rodeo or wild animal show per the Code of the City of Wichita shall be permitted only when so licensed by applicable governing agencies.
- (11) All electrical connections, erections of temporary structures/tents, etc. shall be in compliance with applicable codes and regulations and shall be permitted/licensed as applicable.

SECTION 11. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, this ____ day of _____, 2006.

CITY OF WICHITA
Carlos Mayans, Mayor

ATTEST:
Karen Sublett, City Clerk

(SEAL)
Approved as to form:
Gary Rebenstorf
Director of Law

Agenda Item No. 24

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0489

TO: Mayor and City Council

SUBJECT: Proposed Adoption of Licensing Regulations for Farmer's Markets –
New Chapter 3.94 of the Code of the City of Wichita

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendation: Approve first reading of the ordinance creating Chapter 3.94 of the Code of the City of Wichita, pertaining to licensing of organized outdoor farmer's markets.

Background: A request for regulatory changes to allow outdoor farmer's markets in "LC" Limited Commercial zoning districts for more than two days per month has been made to at least one City Council Member. There is interest among other City Council Members to define, guide and/or promote the direction and/or regulation of farmer's markets.

During City Council workshops in October 2005 and February 2006, Council asked MAPD and OCI staff to present current and suggested regulations for outdoor farmer's markets, including both Unified Zoning Code (UZC) regulation and related, proposed licensing requirements for outdoor farmer's markets.

At the February 14, 2006, workshop, Council directed staff to present the farmer's market item to District Advisory Boards (DABs) for additional review and comment. During March, staff presented draft proposals to the DABs and requested feedback and public input. The proposed ordinances for outdoor farmer's markets have incorporated this input. The DAB summary is attached.

Staff (including MAPD, OCI, Environmental Services and Law) has also worked very closely with operators of existing farmer's markets to ensure the proposed amendments will not overburden operators, yet will adequately provide for the health, safety and welfare of the general public.

Analysis: Currently, farmer's markets are not specifically defined or regulated by either the Wichita-Sedgwick County Unified Zoning Code (UZC) or by City of Wichita "miscellaneous sale", "transient merchant" or other City licensing ordinances. Therefore, both UZC amendments and a new licensing ordinance are proposed (as complementary ordinances) to address the Council's desire for more specific outdoor farmer's market regulation. Per current UZC requirements, outdoor farmer's markets are regulated as "outdoor business promotion and/or sales", which are limited in the "LC" Limited Commercial district to not more than two days per month, and in less restrictive zoning districts, for an unlimited number of days (provided certain other required City sales and/or vendor/business licenses are obtained).

The proposed UZC amendments and new Chapter 3.94 licensing ordinance define "Outdoor Farmer's Market", establish minimum and specific conditions, requirements and operating guidelines for outdoor farmer's markets, and restrict outdoor farmer's markets to no more than five days per month in all zoning districts where they will be allowed (LC, OW, GC, CBD, LI and GI). The proposed amendments will apply only within the City limits of Wichita.

The proposed licensing ordinance will allow a farmer's market operator/applicant to include other required City licenses and applications as part of the farmer's market license application. The farmer's market license approval may therefore serve as an "umbrella" license for a farmer's market operation; its participating growers, transient merchants and entertainers ("cabarets" or cabaret performers per City Code); temporary advertising signage for the market and/or its participants; and tents up to 150 square feet in size to serve the market and/or its vendors. However, for public health and safety reasons, the proposed ordinance requires that certain market participants and/or activities be separately reviewed, inspected and licensed per other existing City Codes, including:

i Food vendors, food processors, food establishments or temporary food establishments as defined in State Law and by Chapter 7.22 of the Code of the City of Wichita. (NOTE: When a licensee is applying for said license solely to participate in an organized, city-licensed farmer's market, the license fees as set forth in Chapter 7.22 shall be waived, per the proposed ordinance);

i Activities and/or operations of such a nature as to be considered an amusement ride, ride device, circus, carnival, rodeo or wild animal show per the Code of the City of Wichita.

Financial Considerations: The proposed ordinance requires farmer's markets to be licensed on a weekly, monthly or seasonal basis, with license fees of \$50, \$75 and \$150 respectively. The market operator/applicant may include sellers, growers, transient merchants and cabaret performers within the blanket license application, or may elect to have participating vendors who currently require these types of City licenses to separately obtain them. Generally, the proposed fees associated with the "blanket" farmer's market license application will be significantly less than the fees that would currently be required for separate, participating vendor licenses.

Legal Considerations: The proposed ordinance creating Chapter 3.94 of the Code of the City of Wichita has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve first reading of the ordinance creating Chapter 3.94 of the Code of the City of Wichita, pertaining to licensing of outdoor farmer's markets.

First Published in the Wichita Eagle _____

AN ORDINANCE CREATING NEW CHAPTER 3.94 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ORGANIZED FARMER'S MARKETS, AND THE TEMPORARY OR INTERMITTENT SALES OF CERTAIN AGRICULTURAL PRODUCTS, PRODUCE AND MERCHANDISE AT SUCH FARMER'S MARKETS WITHIN THE CITY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.95.010 of the Code of the City of Wichita, Kansas, shall read as follows: "Findings and Purpose. It is hereby found that farmer's markets, as defined herein, operate businesses or conduct activities, in most cases, as retail operations and with a personal profit or non-profit purpose. The Governing Body finds that it is necessary, in the interest of the public health, safety, and welfare, to regulate the time, place, and manner of farmer's market activities within the City. It is the purpose of this chapter, therefore, to control certain farmer's market activities, to require certain licensing procedures, to assist in regulating farmer's markets, to protect consumers, and to protect adjoining property owners as well as the integrity of residential and commercial districts within the City."

SECTION 2. Section 3.94.020 of the Code of the City of Wichita, Kansas, shall read as follows: "Definitions. For the purpose of this chapter, the following words shall have the following meanings, unless the context otherwise requires.

(a) "Farmer's Market" means an outdoor place or market area with a formalized location where more than one Kansas farmer or grower gathers to sell agricultural products they have grown or raised. Other activities and other sellers may be accommodated at the market, but the sale of agricultural products shall be the focal point of the market activity. Other products that may be sold would typically include dried flowers, plants, nursery products, crafts and handicrafts that are made in the home, original artwork and certain prepared foods as approved by the City of Wichita Environmental Services Department, such as baked goods, preserves, pickles and cheese.

(b) "Person" means any individual, corporation, partnership, association or other entity.

(c) "Market Operator" means the person responsible for running and managing the farmer's market on a day-to-day, week-to-week and/or month-to-month basis. The Market Operator is the designated person responsible for operational decisions such as vendor selection and enforcement of the market's adopted and prescribed vendor rules and regulations. The market's rules and regulations must be in accordance with all relevant federal, state and local regulations. A copy of the rules and regulations for the market must be submitted to the City for review before a Farmer's Market license is issued.

(d) "Merchandise" means any agricultural produce, plants, nursery products, flowers, baked goods, handicrafts, goods, wares, food, food products, or any product of any kind that can be bought and sold.

“Transient merchant”, “itinerant merchant” or “itinerant vendor” shall be as defined in Chapter 3.95 of the Code of the City of Wichita.

SECTION 3. Section 3.94.030 of the Code of the City of Wichita, Kansas, shall read as follows: “License required. It shall be unlawful for any market operator or person, or any agent, servant or employee to engage in, carry on, or conduct a farmer’s market without first having obtained the required license from the City. A separate farmer’s market license is required for each location at which a farmer’s market is held or conducted.”

SECTION 4. Section 3.94.040 of the Code of the City of Wichita, Kansas, shall read as follows: “License fees.

(a) An application for a farmer’s market license shall be accompanied by a license application fee. Market operators may elect to include participating vendors and sellers who are otherwise required to be licensed by this Chapter as part of the market operator’s license (but excluding those vendors or sellers defined in items (c)(i), and (c)(ii) below), or may elect to have participating vendors and sellers who are otherwise required to be licensed by the city separately obtain their required city licenses. The application fees for a farmer’s market may be issued by the week, by the month, or on an annual basis per the following fee schedule:

Per week - \$50

Per month - \$75

Per 7 month growing season - \$150

(b) A license shall be valid and effective only for the dates and times of operation set forth in the license, and for not longer than one seven month growing season, and no sales shall be conducted during any other hours on any other dates.

(c) A farmer’s market license may be a blanket license for participating vendors, except for the following types of vendors, producers or sellers who are required to obtain their own separate City of Wichita license as set forth in the Code of the City of Wichita:

(i) Food vendors, food processors, food establishments or temporary food establishments as defined in State Law and by Chapter 7.22 of the Code of the City of Wichita. When a licensee is applying for said license solely to participate in an organized, city-licensed farmer’s market, the license fees as set forth in Chapter 7.22 shall be waived.

(ii) Activities and/or operations of such a nature as to be considered an amusement ride, ride device, circus, carnival, rodeo or wild animal show per the Code of the City of Wichita.

SECTION 5. Section 3.94.050 of the Code of the City of Wichita, Kansas, shall read as follows: “License nontransferable. A license is not transferable to any other market operator, person, firm or corporation and cannot be used for any activity or at a location other than those listed on the application and approved for licensing.”

SECTION 6. Section 3.94.060 of the Code of the City of Wichita, Kansas, shall read as follows: “License application. A farmer’s market operator shall obtain a license through the City Treasurer’s office. A license may be issued only upon the completion of a license application that shall be on a form provided by the City Treasurer. A separate farmer’s market license is required for each location at which a farmer’s market is held or conducted. The farmer’s market application shall contain the following information:

(a) Name, date of birth and contact information of the market operator and applicant;

(b) The name and permanent address of the market operator making application, and, if the market operator is not an individual, the names and addresses of the officers of the corporation or members of the partnership, association, or other entity, as the case may be;

- (c) If the market operator is a corporation, the name and permanent address of the market operator's registered agent or office;
- (d) Proof of a current sales tax license from the State of Kansas for the market operator and all transient merchant vendors, or proof of exempt status from state sales tax;
- (e) Address of the location where the market operator intends to operate the farmer's market;
- (f) A brief description and/or listing of the name and nature of the type of business to be conducted and the types and mix of vendors who will participate in the farmer's market activities;
- (g) Completed information regarding any and all participating vendors that qualify as "transient merchants" under Chapter 3.95 of the Code of the City of Wichita. Such transient merchant information must be submitted on a form and in detail as required by the City and as provided in the farmer's market license application. If any transient merchant vendor not included as part of the originally submitted and approved farmer's market license application subsequently participate in a licensed farmer's market, the market operator shall immediately provide the City required information for the vendor or vendors, or shall direct the transient merchant vendor or vendors to obtain required City transient merchant license or licenses. "Transient merchants" who participate in a farmer's market may separately apply for their own license with the City of Wichita if they are not included as part of the farmer's market license application. However, any participating "transient merchant" shall be licensed under either the farmer's market license or under their own separately-obtained "transient merchant" license;
- (h) The specific date(s) and times for which the right to operate the farmer's market is desired;
- (i) A sketch or drawing of the proposed farmer's market site showing the approximate dimensions of the area being used, the proximity to buildings, parking lots, rights-of-way or other such areas, and a description of any structure, implement, stand, display prop, or other such items used for the farmer's market, including signs, banners or other attention getting devices;
- (j) The name, address, telephone number and written permission of the owner, or tenant in possession of the location described in the application, upon which the applicant intends to conduct the farmer's market operation and activities;
- (k) A statement as to whether or not the market operator and applicant has within two years prior to the date of the application been convicted of any felony; and
- (l) A signed statement from the market operator and applicant indicating that all of the information provided is true and correct.

SECTION 7. Section 3.94.070 of the Code of the City of Wichita, Kansas, shall read as follows: Issuance of license. (a) A farmer's market license may be issued only upon completion of the application, payment of required license fees, and a showing that the farmer's market, activity, operator or licensee is not proposing to operate in violation of the prohibited acts stated in Section 3.94.110, or in violation of any state, federal or local law. Application for a farmer's market license shall be made not less than 10 business days prior to the date(s) for which the activity is scheduled. Upon receipt of a properly completed application for a farmer's market license, the City Treasurer shall refer the application to the appropriate city departments for investigation and recommendation regarding issuance of the license.

(b) If a license is not issued, written notice shall be mailed, faxed, electronically issued or hand delivered to the applicant indicating the reason for the denial, and shall also set forth information regarding the right of the applicant to appeal the denial.

(c) The issuance of a license shall not otherwise prohibit enforcement of this chapter or any other laws, and further, shall not authorize the licensee to operate his or her business in violation of the Wichita-Sedgwick County Unified Zoning Code, as set forth in Title 28 of this code.

SECTION 8. Section 3.94.080 of the Code of the City of Wichita, Kansas, shall read as follows: Display of license. A licensee shall be required to display the farmer's market license while any activities pursuant to the license are being conducted. The license shall be posted in plain view to all customers or others at the location, and to law enforcement officers and other enforcement officers of the city.

SECTION 9. Section 3.94.100 of the Code of the City of Wichita, Kansas, shall read as follows: Revocation of license. (a) The Superintendent of the Office of Central Inspection may revoke any license issued under this chapter, for any of the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement made in the course of carrying on the business.

(3) Any violation of the provisions of this chapter.

(4) Any violation of Chapter 7.41 of the City Code, pertaining to the prohibition of loud and unnecessary noise.

(b) The superintendent of central inspection shall notify the licensee of the revocation of his or her license in writing, setting forth the grounds for revocation, which shall be hand delivered to the licensee, or mailed to the licensee's permanent address appearing on the application. Upon five days' written notice to the person holding any license issued under the provisions of this chapter the Director of Central Inspection shall have authority to revoke the license.

(c) Any person aggrieved by the revocation of a license as provided in this chapter shall have the right of appeal to the city council as set forth in Section 3.94.120(b).

SECTION 10. Section 3.94.110 of the Code of the City of Wichita, Kansas, shall read as follows: Prohibited acts. It is unlawful for any farmer's market operator, seller, grower, producer, food service vendor or transient merchant to:

(a) Conduct business or carry on activities in violation of any zoning requirements of the city, including setback requirements, and as specifically outlined in Art. III, Sect. III-D.6.jj of the Wichita-Sedgwick County Unified Zoning Code;

(b) Create noise in violation of Chapter 7.41 of the city code;

(c) Provide any false or misleading information in completion of any license application;

(d) Fail to obtain permission of the property owner where such activity is being conducted;

(e) Fail to provide, at the request of the purchaser or customer, a written receipt for purchases exceeding \$5.00 (five dollars) or as required by the State of Kansas;

(f) Fail to provide any customer, or other such person, her or his name, the name of the company or organization represented, the name of the product, or make any representation as to identity which is false or misleading;

(g) Fail to allow authorized law enforcement officers or other enforcement officers of the city to enter into or upon the premises or to otherwise interfere with any inspection of the premises or business;

(h) Fail to remove any structure, device, trash, or debris caused, created or associated with the farmer's market activities in an outdoor area;

(i) Erect or display more than two (2) temporary signs to generally advertise the farmer's market, with no such sign exceeding 16 square feet in area, or for any seller and/or vendor to erect or display more than one sign or any sign greater than 10 square feet in total area. Sign permits shall not be required for signs as described above. Such signs shall not be erected more than 24 hours prior to the market's opening for sales to the public, and shall be removed within 24 hours of the markets closing for sales to the public. Streamers, pennants, search lights and any device with flashing, blinking, rotating or moving action are prohibited from use, and no sign shall be placed upon the public right-of-way, or within the vision site triangles for public street intersections or driveways as set forth in the Sign Code (Title 24.04.200 of the Code of the City of Wichita);

(j) Erect or construct any structure, tent, or building greater than 150 square feet in size, unless a building permit for a larger structure, tent or building is obtained;

(k) Conduct business or carry on activities within 50 feet of any driveway entrance or access lane from a public street to an existing business;

(l) Conduct business or carry on activities within the city right-of-way or other publicly owned property;

(m) Conduct business or carry on activities between the hours of 9:00 p.m. and 6:00 a.m.

The requirements governing location and placement of farmers markets and activities in subsections (a), (i), (j), (k), (l) and (m) shall not be applicable to farmers markets or farmer's market vendors who participate in a community event which has been approved and issued a permit by the City of Wichita's Community Event Coordinator pursuant to the ordinances of the City of Wichita, or farmer's market events that are authorized by Wichita Festivals, Inc., pursuant to Chapter 3.14 of the Code of the City of Wichita.

SECTION 11. Section 3.94.120 of the Code of the City of Wichita, Kansas, shall read as follows: Appeals. An applicant or licensee may appeal the decision of the Superintendent of Central Inspection that either denies an application for a license, or revokes a license as provided in Section 3.94.100 (b). Such appeal shall be to the City Council, and must be filed in writing with the city clerk within ten (10) days after the notice of denial or revocation, has been mailed or hand-delivered to an applicant or licensee. The City Council shall conduct the hearing as soon as practical following the submittal of the appeal request, and in accordance with City Council Agenda Process guidelines or procedures established by the City Manager.

SECTION 12. Section 3.94.130 of the Code of the City of Wichita, Kansas, shall read as follows: Enforcement. In addition to all law enforcement officers of the city, the Superintendent of Central Inspection and all deputies under his or her supervision, and all health officers who are authorized representatives of the Director of the Environmental Services Department shall have the power to enforce the provisions of this chapter.

SECTION 13. Section 3.94.140 of the Code of the City of Wichita, Kansas, shall read as follows: Violations, penalty. Any person who violates any of the provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars (\$500). Each day that any violation of this chapter continues shall constitute a separate offense and shall be punishable hereunder as a separate violation.

SECTION 14. Section 3.94.150 of the Code of the City of Wichita, Kansas, shall read as follows: Compliance with state statute. Nothing in this Chapter shall be interpreted to authorize any person licensed hereunder to transact business as a farmer's market in violation of any state statute governing the conduct of transient merchants and merchant sales, nor shall compliance with the provisions of this Chapter relieve any person from compliance with the state statutes requiring the licensing of transient merchants or merchant sales.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its adoption and publication in the official city newspaper. PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2006.

CITY OF WICHITA

Carlos Mayans, Mayor

Attest:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

Agenda Item No. 25

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0490

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structures
District I

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolutions.

Background: On March 21, 2006 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on May 9, 2006.

Analysis: On March 6, 2006, the Board of Code Standards and Appeals (BCSA) held a hearing on seven properties. Since that time, one (1) property has been repaired, the remaining six (6) properties are listed below:

<u>Property Address</u>	<u>Council District</u>
a. 525 North Mathewson	I
b. 1413 East 9th Street	I
c. 1132 North Grove	I
d. 1322 North Chautauqua	I
e. 1216 North Dellrose	I
f. 2920 East Stadium	I

Detailed information/analysis concerning these properties are included in the attachments.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on March 23, 2006, and March 30, 2006. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolutions declaring the buildings dangerous and unsafe structures, and accept the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structures. Any extensions of time granted to repair the structures would be contingent on the following: (1) All taxes have been paid to date, as of May 9, 2006; (2) the structures have been secured as of May 9, 2006 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of May 9, 2006 and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

Agenda Item 26a

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0491

TO: Mayor and City Council Members

SUBJECT: Ordinance Section 1. Section 3.10.010 Created to establish a process for Permitting Community Events

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: Currently, the City of Wichita has no ordinances regulating the use of public or private property for large scale community events. Staff was directed to review current procedures and develop ordinances and procedures which would simplify the approval process for community events. .

Currently, the application and review process used is dependent upon the public property requested for use.

The approval process has been effective but continues to present challenges for both applicant and staff due to a variety of issues associated with frequency, uniqueness and time constraints of request. Throughout the review process, the committee works with the applicant to enforce code requirements, resolve issues and identify options as needed.

Analysis: A new ordinance for Community Events is proposed to simplify the application process for citizens. In addition to creating one point for submitting applications, it will also directly address issues for code compliance, safety and consideration for residents with respect to property access, noise and lighting for surrounding neighborhoods. The proposed process and application has been presented to the District Advisory Boards as well as to the event stakeholders for comments, suggestions, and considerations. The ordinance will be effective January 1, 2007.

In addition to the creation of the proposed new ordinance for Community Events, the following revisions to existing City codes are recommended:

1. Noise: Section 7.41.030 and creating 7.41.042 and 7.41.045 and 7.42.043
· Created to address sound associated with events, typically amplified music.

2. Conduct in the park: Sections 9.04.030, 9.04.040, 9.04.080, 9.04.190 regarding community events in city parks.

- Created and amended sections associated with approval of community events, parades, and sound.

3. Obstructing streets and sidewalks: Section 10.04.130

- Amended to allow obstructions associated with approved community events.

Financial Considerations: No fee is currently associated with a Community Event application. A fee schedule, set forth by the city manager, with approval by the council is included in the proposed ordinance. The schedule of fees will be brought back to City Council.

Legal Consideration: The ordinances have been prepared and reviewed by the Law Department and have been approved as to form.

Recommendation/Action: Place the ordinance on first reading.

ORDINANCE NO. 47-

AN ORDINANCE CREATING CHAPTER 3.10 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO COMMUNITY EVENTS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 3.10.010 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Purpose. It is the purpose of this Chapter to establish a process for permitting community events to use City streets, parks, and city-owned facilities. The City recognizes that substantial community benefits may result from community events. They can provide cultural enrichment, promote economic vitality and enhance community identity. They may also provide funding opportunities for service organizations. This Chapter is to provide a coordinated process for managing community events occurring on public and private property to ensure the health and safety of event patrons, residents, workers, and other visitors; to prohibit illegal activities from occurring at the community events; and to protect the rights of community event permit holders. It is also the intent of the Council to protect the rights of people to engage in expressive activities in the City's public places and to establish the least restrictive and reasonable time, place and manner regulation of these activities, without regard to the expressive content of those activities."

SECTION 2. Section 3.10.020 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Definitions. (a) 'Community event' means:

- (1) an outdoor event on City-owned property with an expected attendance of fifty (50) or more persons, organized for a particular and limited purpose and time;
- (2) outdoor events on private property or which occur in City of Wichita parks with an expected attendance of two hundred fifty (250) or more people, organized for a particular and limited purpose and time.

Such events shall include, but not be limited to: fun runs, roadway foot races, fundraising walks, bikeathons, carnivals, festivals, community celebrations, shows, exhibitions, circuses and fairs. Such term shall not include events, other than fun runs or races, occurring solely on sidewalks or public rights-of-way immediately adjacent to public streets.

(b) Exceptions.

The provisions of this chapter shall not apply to:

1. Community events conducted by the City of Wichita or events regulated by Chapter 3.14 of the Code of the City of Wichita.
2. Events consisting only of a parade, whether regulated or exempted by the provisions of Section 3.13.020 of the Code of the City of Wichita.
3. Funeral processions as regulated by Chapter 3.74 of the Code of the City of Wichita.
4. Outdoor events occurring at amusement parks licensed pursuant to Chapter 3.20 of the Code of the City of Wichita.
5. Social or political protests, rallies, gatherings, assemblies, or vigils occurring on public property, which consist solely of the displaying of signs or banners, singing and the delivering of speeches.

6. Outdoor events conducted entirely on the property of a museum, educational or religious institution.
 7. Outdoor events held at a members-only facility at which the only participants are the members (and their invited nonpaying guests) and no extraordinary police services are required.
 8. Events held entirely inside the Lawrence-Dumont Stadium.
 9. Farmers Markets licensed pursuant to Chapter 3.94 of the Code of the City of Wichita.
 10. Auctions as regulated by Chapter 3.36 of the Code of the City of Wichita.
 11. Garage or Miscellaneous sales as regulated by Chapter 3.44 of the Code of the City of Wichita.
 12. Performances of Street Performers as defined and regulated by Chapter 10.36 of the Code of the City of Wichita.
 13. Sporting events, contests, practices or tournaments occurring at sport complexes or playing fields where the scope of the event is limited to the sporting event for which the property is designed to be utilized.
 14. Events held at a private residence where no admission is charged, the event is not open or advertised to the public, and no extraordinary police services are required.
- (c) 'Community Event Coordinator' means the Manager of Arts and Cultural Services or his or her designee.
- (d) 'Community Event Promoter' means the person who is directly responsible for organizing and/or conducting the event.
- (e) 'Extraordinary police services' means responsive police services which are in addition to and in excess of the normal police services provided to the location or off-site as a direct result of the event.
- (f) 'Person' shall mean a natural person or a legal entity such as, but not limited to an individual, firm, association, joint stock company, partnership or corporation."

SECTION 3. Section 3.10.030 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Community Events Coordinator. The Manager of Arts and Cultural Services is hereby directed to carry out the provisions of this Chapter. In reviewing and approving community events applications, the Community Events Coordinator shall consult representatives of City departments, including, but not limited, to the following departments: City Manager's Office, Office of Central Inspection, Park and Recreation, Public Works, Fire, Police, and Environmental Services. The Law Department shall provide all legal services, legal advice and opinions regarding issues pertaining to this Chapter."

SECTION 4. Section 3.10.040 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Authority of the Community Events Coordinator. The Community Events Coordinator is authorized to:

- (a) Administer and apply this Chapter;
- (b) Represent the City, under the authority of the City Manager, in discussions and in establishing agreements with the person(s) who represent the event;
- (c) Establish, under the authority of the City Manager, any implementing regulations/guidelines consistent with this Chapter, and other provisions of the Municipal Code applicable to the event."

SECTION 5. Section 3.10.050 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Permit required. Except as otherwise provided by this Chapter or other applicable law, a Community Event Permit shall be required to be obtained from the City for any community event as defined by Section 3.10.020.”

SECTION 6. Section 3.10.060 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Application. (a) To receive a community event permit, the event promoter must complete and file a community event application with the Manager of Arts and Cultural Services, or other designated representative, on a form provided by the City. The applicant must provide the following information:

- (1) The type of proposed use, event, or activity; i.e., fun run, carnival, festival;
- (2) The street or other public or private property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity;
- (3) The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity;
- (4) The name, address and telephone number of the person, entity or organization sponsoring or conducting the proposed event;
- (5) The name, address and telephone number of the person or persons to be contacted regarding the application or permit;
- (6) The number of past participants who attended previous events sponsored by the applicant, if available;
- (7) The maximum number of persons which the applicant shall permit to attend at any time;
- (8) Whether alcohol or cereal malt beverages will be available at the event;
- (9) The applicant shall submit a site plan which includes:
 - (a) Any plans for fencing, and the size and location of the gates contained in such fence;
 - (b) The plans for supplying potable water, including the source, amount available and location of outlets;
 - (c) The placement of any stages;
 - (d) A map of the event identifying any and all street closures and placement of any barricades, with a designation of the types of barricades to be used;
 - (e) The plans for providing toilet and lavatory facilities, including the source, number and location, type, and the means of disposing of waste deposited;
 - (f) The plans for collection and disposing of solid waste material;
 - (g) The plans, if any, to illuminate the location of the community event, including the source and amount of power and the location of lamps;
 - (h) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots and any shuttle service;.
 - (i) The plans for sound and sound amplification, if any, including number, location and power of amplifiers and speakers;
 - (j) The placement and size of any signage for the event;
 - (k) The plans for seating, tables, bleachers or seating facilities;
 - (l) The plans and location for any beer gardens or other areas serving cereal malt beverages;
 - (m) The plans for electrical power and generators, if applicable;

- (n) The plans and location of any tents or canopies and the size of any such tent or canopy.
 - (o) The plans and location of any portable amusement park or inflatable rides.
 - (p) The plans and locations, if any, where alcohol or cereal malt beverage will be sold or consumed.
 - (10) Security. All security must be provided by certified law enforcement officers and/or approved private security firms licensed pursuant to Chapter 3.72 of the Code of the City of Wichita. The applicant shall be responsible for all costs incurred in providing security for the event;
 - (11) The plans for food and beverage concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers, if applicable;
 - (12) The plans and specific description for each of any other type of vendor or amusement or entertainment provider who will be allowed to operate on the grounds, including the names and addresses of such vendors and their license or permit numbers, if any;
 - (13) Proof of liability insurance for the event as required by Section 3.10.130;
 - (14) Receipt for payment of the application fee as set forth in Section 3.10.070.
 - (b) The Chief of Police shall establish a formula for determining the minimum number of officers necessary to provide adequate security for the event. The criteria set forth by the Chief shall be the sole criteria utilized in determining the security necessary for the specific event. In establishing the formula, the following criteria shall be utilized by the Chief of Police:
 - (1) Number of event participants;
 - (2) Number of past event participants, if available;
 - (3) Whether alcohol is served or sold at the event;
 - (4) The time and duration of the event;
 - (5) Location or venue of the event;
 - (6) Number of street closures required for the event;
 - (7) Number of private security officers employed for the event;
 - (8) Whether admission is charged for the event;
 - (9) Size of area where alcohol is served;
 - (10) Means of ingress and egress to the event.
- In determining the amount of officers needed to provide security for an event, the Chief of Police shall not consider the content of the applicant's speech, the measure of hostility likely to be created by the applicant's speech or the response of others who may oppose the event.
- (c) All applications must be submitted in accordance with the time limits established by Section 3.10.070."

SECTION 7. Section 3.10.070 of the Code of the City of Wichita, Kansas, is created to read as follows:

"Fees. All applicants for events whether held on private or public property shall be responsible for any applications, fees, licenses, permits and any rental fees which may be required based upon the scope and nature of event . The City Manager shall establish a schedule of fees for special events. Such schedule of fees shall be approved by a resolution of the City Council.

Applications may not be accepted by the Community Events Coordinator less than thirty (30) days prior to the event."

SECTION 8. Section 3.10.080 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Review Process. Subject to Section 3.10.090, the Community Events Coordinator shall approve a community event permit if it is determined that all of the following criteria have been met:

- (a) The event will not obstruct the operation of emergency vehicles or equipment in or through the particular permit area;
- (b) The proposed event does not present a safety, noise, or traffic hazard;
- (c) The proposed event conforms to regulations regarding the allowable number of participants for the proposed venue, location, or site; and
- (d) In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, the identity or associational relationships of the applicant, or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event.”

SECTION 9. Section 3.10.090 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Denial/Revocation of Permit. The Community Events Coordinator shall deny an application for a Community Events Permit if he or she finds any of the following:

- (a) One or more of the approval criteria specified in Section 3.10.080 is not met;
- (b) The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process;
- (c) The application does not contain the information required by this Chapter;
- (d) The application does not satisfy the requirements of this Chapter or administrative regulations adopted by the Community Events Coordinator;
- (e) The applicant fails to comply with any conditions of approval including, but not limited to:
 - (1) Remittance of fees, charges or deposits,
 - (2) Proof of liability insurance required,
 - (3) Obtaining all other permits and licenses as required by the City Code for the proposed event.
- (f) The applicant, in the last five years, has had a previous community event permit revoked for failure to comply with the terms or conditions of the permit, or for violations of the ordinances of the City of Wichita.
- (g) The applicant, in the last five years, has organized a community event which did not conform to the plans and application submitted to the Community Events Coordinator or which failed to comply with any conditions for such event placed on the event by the Community Event Coordinator.

The applicant shall be notified of the denial in writing. The denial shall set forth the specific reasons for the denial of the application.”

SECTION 10. Section 3.10.100 of the Code of the City of Wichita, Kansas, is created to read as follows:

- (a) “Revocation of Permit. All permits issued pursuant to this chapter shall be temporary and shall vest no permanent rights in the applicant and may be revoked by the City Manager or his or her designee in the event of a violation of any of the terms or conditions of the license or violations of the ordinances of the City of Wichita.”

SECTION 11. Section 3.10.110 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Appeal. Any applicant for a permit under this chapter who has been administratively denied the issuance of a permit by the Community Events Coordinator shall have a right of appeal from the denial to the Wichita City Council by filing a written request therefor with the City Clerk. The notice of appeal must be filed with the City Clerk within five days of the denial of such permit application. The appeal shall be heard at the next regularly scheduled meeting of the Council.

The City Council may approve the denial, overrule the denial or modify the request for the permit.

The Council’s decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101.”

SECTION 12. Section 3.10.130 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Insurance Requirements. The permit holder for events occurring on public or park property shall procure and maintain in full force and effect during the term of the permit a policy of insurance from an insurance company authorized to do business in the State of Kansas, which policy includes the City of Wichita, its officers and agents, as named insured’s and which provides general liability coverage in an amount not less than \$500,000 per occurrence and a minimum of \$50,000 property damage coverage. Proof of insurance shall be submitted to the City prior to issuance of the permit and maintenance of this insurance shall be a condition of the permit.”

SECTION 13. Section 3.10.140 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Community Event Temporary Signage. Directional signs for walks and races may be installed on the event route, including the City right-of-way or other private property with the property owner’s permission, by the permit holder or his/her designee, provided that each sign is less than two square feet in size, and installed less than two hours prior to the start of the event and removed within one hour of the completion of the event, irrespective of the provisions of Title 24. All other signs must be placed in conformance with all applicable sign code provisions. A site map showing the type and location of the proposed directional signs and any other signage must be submitted as part of the community event permit application and be approved by the City. All necessary permits for such signs must be obtained.”

SECTION 14. Section 3.10.150 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Street Closures. Any street closures requested by a licensee or which are necessary as part of a community event permit application must be approved by the City Council prior to the issuance of the Community Event Permit by the Community Events Coordinator.”

SECTION 15. Section 3.10.160 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Display of Community Event Permit. A copy of the signed approval letter from the Special Events Coordinator shall be exhibited upon demand of any City official.”

SECTION 16. Section 3.10.170 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Use of City Name or Logo Without Authorization. It shall be unlawful for the permit holder conducting a community event to use the words ‘the City of Wichita’ or ‘City of Wichita’ to suggest or indicate that the event is sponsored by the City or to use a facsimile of the seal or logo of the City of Wichita in the promotional materials or advertising for the event without the City’s authorization.”

SECTION 17. Section 3.10.180 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Administrative Regulations. The Community Events Coordinator, or her/his designee, may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this Chapter. All such administrative regulations must be in writing.”

SECTION 18. Section 3.10.190 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Other Permits, Licenses and Fees. The issuance of a community event permit does not relieve any person from the obligation to obtain any other permit, license or pay any additional fees, including rental fees, required pursuant to this Code or other governmental entity or department of the City of Wichita.”

SECTION 19. Section 3.10.200 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Limitations and Restrictions. The issuance of a community event permit does not relieve any person from limitations or restrictions contained in the Code of the City of Wichita relating to noise, sanitation, consumption of cereal malt beverages or alcoholic liquor or street obstructions.”

SECTION 20. Section 3.10.210 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Penalties. Any person who intentionally violates any of the provisions of this Chapter shall be guilty of a misdemeanor.”

SECTION 21. Section 3.10.220 of the Code of the City of Wichita, Kansas, is created to read as follows:

“Block Parties – Approval Required. (a) No person shall engage in, participate, form or hold a block party, unless written approval for the block party has been obtained from the City of Wichita as provided herein:

(b) A block party shall mean a temporary gathering of area residents held on a blockaded portion of their residential street or alley within the City of Wichita.

(c) Requests to utilize a street for a block party or other similar neighborhood event shall be made by filing an application with the Community Events Coordinator. Such application shall be submitted no less than five business days prior to the proposed event. The Community Events Coordinator, with the approval of the Chief of Police, is authorized to close a local street for the purposes of a block party for a period not to exceed five hours.

(d) The applicant must include a petition in favor of the event signed by two-thirds of residents and businesses on both sides of the street to be closed. Only a street classified by the City as a residential street may be utilized for a block party or other similar neighborhood event.

(e) The application will be subject to such additional rules and regulations adopted by city staff to ensure that the street closure will not obstruct the operation of emergency vehicles or equipment in or through the area and that the proposed block party does not present a safety, noise or traffic hazard.

(f) Streets may not be blockaded for a period of time which exceeds five hours.

(g) Any applicant for a permit under this chapter who has been administratively denied the issuance of a permit shall have a right of appeal from the denial to the Wichita City Council by filing a written request therefor with the City Clerk. The notice of appeal must be filed with the City Clerk within five days of the denial of such permit application. The appeal shall be heard at the next regularly scheduled meeting of the City Council. The City Council may approve the denial, overrule the denial or modify the request for the permit.

The City Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101.

(h) Approval for a block party does not relieve any person from the obligation to obtain any other permit or license required pursuant to this Code or other governmental entity.

(i) Approval for a block party does not relieve any person from limitations or restrictions contained in the Code of the City of Wichita relating to noise, sanitation, consumption of cereal malt beverages or alcoholic liquor or street obstructions."

SECTION 23. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective on January 1, 2007, after its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 16th day of May, 2006.

CITY OF WICHITA
Carlos Mayans, Mayor

ATTEST:
Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

Agenda Item No. 26b

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No.06-0492

TO: Mayor and City Council Members

SUBJECT: Ordinance Amendments to Sections 9.04.030, 9.04.040, 9.04.080, 9.04.190 regarding community events in city parks.

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: Currently, the City of Wichita has no ordinances regulating the use of public or private property for large scale community events. Staff was directed to review current procedures and develop ordinances and procedures which would simplify the approval process for community events. .

Currently, the application and review process used is dependent upon the public property requested for use.

The approval process has been effective but continues to present challenges for both applicant and staff due to a variety of issues associated with frequency, uniqueness and time constraints of request. Throughout the review process, the committee works with the applicant to enforce code requirements, resolve issues and identify options as needed.

Analysis: In addition to the creation of the proposed new ordinance for Community Events, the following revisions to existing City codes are recommended:

Conduct in the park: Sections 9.04.030, 9.04.040, 9.04.080, 9.04.190 regarding community events in city parks.

· Created and amended sections associated with approval of community events, parades, and sound.

Financial Considerations: No fee is currently associated with the conduct in the park ordinance.

Legal Consideration: The ordinances have been prepared and reviewed by the Law Department and have been approved as to form.

Recommendation/Action: Place the ordinance on first reading.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 9.04.030, 9.04.040, 9.04.080, 9.04.180 AND 9.04.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONDUCT IN PARKS AND REPEALING THE ORIGINALS OF 9.04.030, 9.04.040, 9.04.080, 9.04.180, AND 9.04.190.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 9.04.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

" Community Event. It is unlawful for any person or persons to hold or stage a community event, as defined by Section 3.10.020 of the Code of the City of Wichita, in or upon any public parks, recreation facilities or other property under the ownership, jurisdiction, or control of the Board of Park Commissioners of the City of Wichita, Kansas, or the City of Wichita, Kansas, without first obtaining a permit to do so from the Community Event Committee. Such events will only be approved in the areas designated for such activity by the Board of Park Commissioners in 'A Standard of Rules and Regulations'."

SECTION 2. Section 9.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

" Parades. It is unlawful for any person or persons to hold or stage any parade in or upon any streets or to enter upon any property under the ownership,

jurisdiction or control of the Board of Park Commissioners of the City of Wichita, Kansas or the City of Wichita, Kansas, without first applying for and acquiring a permit to do so from the City of Wichita, which permit shall be issued in accordance with Chapter 3.13 of this code."

SECTION 3. Section 9.04.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Audio and sound amplifiers. Except as authorized by Section 7.41.010(b)(1) of the Code of the City of Wichita audio or sound amplifiers of any type are not authorized for use in any of the public parks, recreation facilities or other property under the ownership, jurisdiction or control of the Board of Park Commissioners of the City of Wichita, Kansas, or the City of Wichita, Kansas,"

SECTION 4. Section 9.04.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Intended use of parks, playgrounds and related areas. No person shall use or occupy any public parks, recreation facilities or other property under the ownership, jurisdiction or control of the board of park commissioners of the city of Wichita, Kansas, or any part thereof, for any purpose or purposes other than those designated by the board of park commissioners, except as set forth in "A Standard of Rules and Regulations."

Any person who, after having been advised by any law enforcement officer or authorized representative of the board of park commissioners to cease and desist such occupancy, refuses or neglects to do so, is guilty of a misdemeanor.

Further, it is unlawful for any person to interfere with the rights of an other person to use the public parks, recreation facilities or other property under the ownership, jurisdiction or control of the board of park commissioners of the city of Wichita, Kansas, by committing any of the following acts:

- (a) Impeding, disrupting, hindering or denying another person the right to enter, use or leave any park or recreation facility; or
- (b) Impeding another person in the lawful use of park or recreation facilities through the use of restraint, abduction, coercion and intimidation, or by force and violence, or threat thereof; or
- (c) Impeding, disrupting or hindering another person by any act or intrusion into an area for which the other person has a permit issued by the board of park commissioners for that facility and at that time, and in which said permittee is then present for the purpose of occupying the facility; or
- (d) Refusing or failing to leave any such park or recreation facilities upon being requested to do so by any law enforcement officer or authorized representative of the board of park commissioners charged with maintaining order in such public parks, recreation facilities or other property under the ownership, jurisdiction or control of the board of park commissioners of the city of Wichita, Kansas, if such person is committing, threatens to commit or incites others to commit any act which would, or would if completed, disrupt, impair or interfere with the rights of another person to lawfully use the property or facilities; or
- (e) Disrupting, impairing or interfering with the rights of another person, after having been requested to cease and desist such use or occupancy by any law enforcement officer or authorized representative of the Board of Park Commissioners.”

SECTION 5. Section 9.04.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Application for permits or reservations. All applications for permits except those for community events, shall be made at least three days in advance of the proposed event, provided picnic and musical permits will be issued when facilities are available and in accordance with the provisions of ‘A Standard of Rules and Regulations’. Applications for community events must be submitted in accordance with the provisions of Section 3.10.070 of the Code of the City of Wichita.”

SECTION 5. The originals of Sections 9.04.030, 9.04.040, 9.04.080, 9.04.180 and 9.04.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 6. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective April 1, 2007 with its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2006.

CITY OF WICHITA
Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

Agenda Item No. 26c

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0493

TO: Mayor and City Council Members

SUBJECT: Ordinance Amendments to Sections 10.04.130, regarding street usage to allow obstructions associated with approved community events.

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: Currently, the City of Wichita has no ordinances regulating the use of public or private property for large scale community events. Staff was directed to review current procedures and develop ordinances and procedures which would simplify the approval process for community events. .

Currently, the application and review process used is dependent upon the public property requested for use.

The approval process has been effective but continues to present challenges for both applicant and staff due to a variety of issues associated with frequency, uniqueness and time constraints of request. Throughout the review process, the committee works with the applicant to enforce code requirements, resolve issues and identify options as needed.

Analysis: In addition to the creation of the proposed new ordinance for Community Events, the following revisions to existing City codes are recommended:

Obstructing streets and sidewalks: Section 10.04.130

Amended to allow obstructions associated with approved community events.

Financial Considerations: No fee is currently associated with the obstruction of streets and sidewalks ordinance.

Legal Consideration: The ordinances have been prepared and reviewed by the Law Department and have been approved as to form.

Recommendation/Action: Place the ordinance on first reading.

04/26/06

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 10.04.130 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO OBSTRUCTING STREETS AND SIDEWALKS AND REPEALING THE ORIGINALS OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Section 10.04.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Obstructing streets and sidewalks by litter, goods, wares, etc. It is unlawful for any person to obstruct any street, alley, public area, public right-of-way or sidewalk in the city by piling, placing or maintaining thereon any filth or litter or any goods, wares or merchandise or by placing or erecting any buildings or fence thereon or by placing any benches or seats for public use thereon, except as authorized by a community events permit issued pursuant to Chapter 3.10 of the Code of the City of Wichita.

This section specifically prohibits the using of any public sidewalk in the city for exhibiting goods, wares and merchandise except by special permit granted as provided in Section 10.04.131, and any person violating this section is guilty of a misdemeanor.

For the purposes of this section 'public right-of-way' shall mean the entire width of the area from property line to property line including that area between the roadway and the abutting private property line."

SECTION 2. The original of Section 10.04.130 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper. PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2006.

CITY OF WICHITA

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

Agenda Item No. 26d

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0494

TO: Mayor and City Council Members

SUBJECT: Ordinance Amendments to Section 7.41.030 and creating 7.41.042 and 7.41.045 and 7.42.043 relating to noise, and authorization to utilize sound amplification equipment.

INITIATED BY: Division of Arts & Cultural Services

AGENDA: New Business

Recommendation: Place the ordinance on first reading.

Background: Currently, the City of Wichita has no ordinances regulating the use of public or private property for large scale community events. Staff was directed to review current procedures and develop ordinances and procedures which would simplify the approval process for community events. .

Currently, the application and review process used is dependent upon the public property requested for use.

The approval process has been effective but continues to present challenges for both applicant and staff due to a variety of issues associated with frequency, uniqueness and time constraints of request. Throughout the review process, the committee works with the applicant to enforce code requirements, resolve issues and identify options as needed.

Analysis:

In addition to the creation of the proposed new ordinance for Community Events, the following revisions to existing City codes are recommended:

1. Noise: Section 7.41.030. and creating 7.41.042 and 7.41.045 and 7.42.043
· Created to address sound associated with events, typically amplified music.

Financial Considerations: No fee is currently associated with the noise ordinance.

Legal Consideration: The ordinance has been prepared and reviewed by the Law Department and has been approved as to form.

Recommendation/Action: Place the ordinance on first reading.

ORDINANCE

AN ORDINANCE AMENDING SECTION 7.41.030, CREATING SECTIONS 7.41.042, 7.41.043 AND 7.41.045, OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO NOISE, AND REPEALING THE ORIGINAL OF SECTION 7.41.030.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 7.41.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Excessive noise levels. (a) A noise measured or registered as provided herein from any source not exempted by this chapter at a level which is equal to or in excess of the db(A) established for the time period and zones listed below or that exceeds the background level by five db(A), whichever is greater, is declared to be excessive, unusual, loud and unnecessary, for the purposes of Section 8.41.010:

8:00 a.m. to next	10:00 p.m. to next	8:00 a.m.
Zone	10:00 p.m.	
Residential	55 db(A)	50 db(A)
Commercial	60 db(A)	55 db(A)
Light industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)
5:00 a.m. to next	10:00 p.m. to next	
Zone	10:00 p.m.	Midnight
Parks	60 db(A)	55db(A)

Old Town district as set forth in subsection (b)

Background noise means noise from all sources other than that under specific consideration, including traffic operating on public thoroughfares, and is established by measuring the noise level over a fifteen-minute period of time.

(b) The noise levels for subsection (a) of this section shall be modified for the Old Town district as follows:

(1) Noise levels may exceed background levels by five db(A) to a maximum of eighty db(A).

(2) Noise levels shall be measured from the outside property line when measurements are being made of an activity on a property other than streets or public right-of-way.

- (3) Noise levels under this section may be increased or waived for specific special events when approved in advance by the city manager under procedures adopted by the city council.
- (c) For purposes of this section, the aforementioned zones shall be defined as follows:
- (1) "Residential" means an area of single or multifamily dwellings where businesses may or may not be conducted in such dwellings. The zone includes areas where multiple unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. "Residential" zone includes educational facilities, hospitals, nursing homes and similar institutions.
- (2) "Commercial" means an area where offices, clinics and the facilities needed to serve them are located; an area with local shopping and service establishments located within walking distances of the residents served; a tourist-oriented area where hotels, motels and gasoline stations are located; a large integrated regional shopping center; a business trip along a main street containing offices, retail businesses and commercial enterprises; a central business district; or a commercially dominated area with multiple unit dwellings.
- (3) "Light industrial" means an area containing clean and quiet research laboratories, an area containing light industrial activities which are clean and quiet; an area containing warehousing; or an area in which other activities are conducted where the general environment is free from concentrated industrial activity.
- (4) "Industrial" means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operation.
- (5) "Old Town district" means the Old Town overlay district as defined in the zoning code.
- (6) "Parks" means any public park, recreational facility or other property under the ownership, jurisdiction or control of the Board of Park Commissioners of the City of Wichita or the City of Wichita.
- (7) Adjacent Zones. When a noise source can be measured from more than one zone, the permissible sound level of the more restrictive zone shall govern."

SECTION 2. Section 7.41.042 of the Code of the City of Wichita, Kansas, shall read as follows:

"Application. To receive written authorization for the use of sound amplification equipment as authorized by Sections 7.41.010(b)(1) and 7.41.030(b)(3), a person must complete and file an application for such authorization with the City Manager's Office, on a form approved by the City. The applicant must provide the following information:

- (1) The type of proposed event or activity;
- (2) The number of participants for the proposed event or activity;
- (3) The location, including street address of the area to be utilized for the activity;
- (4) The date or dates and specific times for the activity;
- (5) The plans for sound control and sound amplification, including the number, location and power of amplifiers and speakers.
- (6) The name, address and phone number of the party responsible for the event."

SECTION 3. Section 7.41.043 of the Code of the City of Wichita, Kansas, shall read as follows:

"Review Process. a) In determining if written authorization should be granted as allowed by Sections 7.41.010(b)(1) and 7.41.030(b)(3) of the Code of the City of Wichita, the following factors are to be considered by the City Manager or his designee:

- (1) The volume of the noise;
- (2) The volume of the existing background noise, if any;
- (3) The zoning of the area within which the noise emanates, as well as where the noise can be heard;
- (4) The time of the day or night the noise occurs;
- (5) The duration of the noise;
- (b) No authorization may be issued for the use of sound amplifiers, loud speakers or other similar devices between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Thursday and the hours of 11:00 p.m. and 8:00 a.m. on Friday and Saturday.
- (c) No authorization may be issued for noise levels in excess of eighty db (A)."

SECTION 4. Section 7.41.045 of the Code of the City of Wichita, Kansas, shall read as follows:

"Appeal. Any person denied written authorization for the use of sound amplification devices shall have a right of appeal from the denial to the Wichita City Council by filing a written request therefor with the City Clerk. The notice of appeal must be filed with the City Clerk within ten days of the denial of such application and shall be heard at the next regularly scheduled City Council meeting. The City Council's decision may be appealed to the Eighteenth Judicial District Court pursuant to K.S.A. 60-2101."

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2006.

CITY OF WICHITA

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

Agenda Item No. 27

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0495

TO: Mayor and Members of the City Council

SUBJECT: HUD 2006/2007 One-Year Action Plan (Districts I, III, IV, VI)

INITIATED BY: Housing and Community Services Department

AGENDA: New Business

Recommendation: Close the public comment period and authorize submission of the Plan to the U.S. Department of Housing and Urban Development.

Background: The U.S. Department of Housing and Urban Development (HUD) requires submission of a One-Year Action Plan for the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) and the Emergency Shelter Grant (ESG) programs. On April 4, 2006, the City Council approved the draft 2006/2007 One Year Action Plan as an amendment to the 2004/2008 Consolidated Plan and authorized the thirty-day public comment period to begin.

Analysis: The City's 2006/2007 One Year Action Plan lists the federal resources available from various grant assistance programs to address priority needs identified in the Consolidated Plan. A description of the activities funded, the geographic location of the activities, and other special needs and activities to be undertaken during the fiscal year are included in the action plan. The 2006/2007 One Year Action Plan covers the period beginning July 1, 2006 and ending June 30, 2007.

Financial Considerations: The 2006/2007 One Year Action Plan reflects City Council allocations for all 2006/2007 CDBG, HOME and ESG program funds, totaling \$5,528,249. All funds have been committed to approved projects.

Legal Considerations: No comments were received during the thirty-day public comment period. The City has met all federal requirements to submit the final 2006/2007 One Year Action Plan to HUD.

Recommendation/Action: It is recommended that the City Council close the public comment period and approve the 2006/2007 One Year Action Plan and authorize the necessary signatures and submission of the plan to HUD.

Agenda Item No. 28

City of Wichita

City Council Meeting

May 9, 2006

Agenda Report No. 06-0496

TO: Mayor and City Council Members

SUBJECT: Gilbert & Mosley TIF Extension Ordinance – Public Hearing

INITIATED BY: Environmental Services

AGENDA: New Business

Recommendation: Approve ordinance for first reading.

Background: The City approved a Settlement Agreement with the Kansas Department of Health and Environment (KDHE) on March 26, 1991, under which the City undertook responsibility for the investigation and clean-up of the Gilbert & Mosley Site. The City established a tax increment financing (TIF) district to guarantee funding for the Gilbert & Mosley Redevelopment Project. During the Project, funding has been received from the City's General Fund, contributions from polluters (litigation, arbitration, and settlement), and from a portion of the 20% TIF decrement. Pending capital projects require bonding that will extend beyond the current term of the Project. The TIF funding source will expire in 2011 unless extended. In 2004, the Legislature approved an amendment allowing for a 10 year extension of an environmental TIF, with County and USD approval. On March 7, 2006, the City Council adopted a Resolution setting this date for public hearing on an extension of the TIF district

Analysis: The Resolution adopted on March 7, proposed to extend the Gilbert & Mosley TIF Project for a maximum of 10 years, set the hearing date, and requested approval of the extension by the County Commission and USD 259 School Board. The County and School District have not had an opportunity to review the proposals yet. The proposed ordinance will meet the statutory requirements to extend the district expiration date.

Financial Considerations: The City has collected less than half of the 20% tax decrement authorized in the TIF district to date. The Project has additional projected capital expenditures of over \$7 million. The term of the bond payments would exceed the current TIF life. Extension of the TIF will allow revenue for bond payments and operating and maintenance expenses until 2021. These revenue requirements will not use the full 20% decrement for that period, however.

Legal Considerations: The Resolution set forth the statutory requirements for notice of a hearing. The ordinance has been reviewed and is approved as to form..

Recommendations/Action: Close the public hearing, approve first reading of the ordinance, and hold second reading of the ordinance until approval is received from the County and School District.

(First Published in The Wichita Eagle on _____)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WICHITA EXTENDING THE COMPLETION DATE OF THE REDEVELOPMENT PROJECT FOR THE GILBERT AND MOSELY REDEVELOPMENT DISTRICT AS ADOPTED IN CITY OF WICHITA ORDINANCE NO. 41-446 AND NO. 41-461

WHEREAS, the Gilbert and Mosley Redevelopment District was established in an environmentally contaminated area by Ordinance No. 41-446, adopted July 9, 1991, pursuant to K.S.A. 12-1770, as amended;

WHEREAS, the project plan for the redevelopment project located in the Gilbert and Mosley Redevelopment District was approved by Ordinance No. 41-461, adopted July 23, 1991;

WHEREAS, the City of Wichita adopted Resolution No. 06-120 on March 7, 2006, to give notice that it was considering the extension of the Gilbert and Mosley Redevelopment Project;

WHEREAS, the City of Wichita desires to extend the Gilbert and Mosley Redevelopment Project for a maximum of 10 years beyond the original 20 years as authorized by K.S.A. 12-1771a(g), as amended; and

WHEREAS, the City of Wichita has received approval in writing of the request for extension from the Board of Sedgwick County Commissioners and Unified School District No. 259;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The project plan for the redevelopment project located in the Gilbert and Mosley Redevelopment District as approved by Ordinance No. 41-446, adopted July 9, 1991, and Ordinance No. 41-461, adopted July 23, 1991, is hereby extended 10 years beyond the original project completion date, pursuant to K.S.A. 12-1771a(g), as amended.

SECTION 2. This ordinance shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this date _____.

CITY OF WICHITA

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

Agenda Item No. 29

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0497

TO: Mayor and City Council

SUBJECT: ZON2006-13; CON2006-07 – Amendment to Protective Overlay #136 to remove “car wash” from a list of prohibited uses, and approval of a car wash. Generally located at the southwest corner of Central and Ellson. (District II)

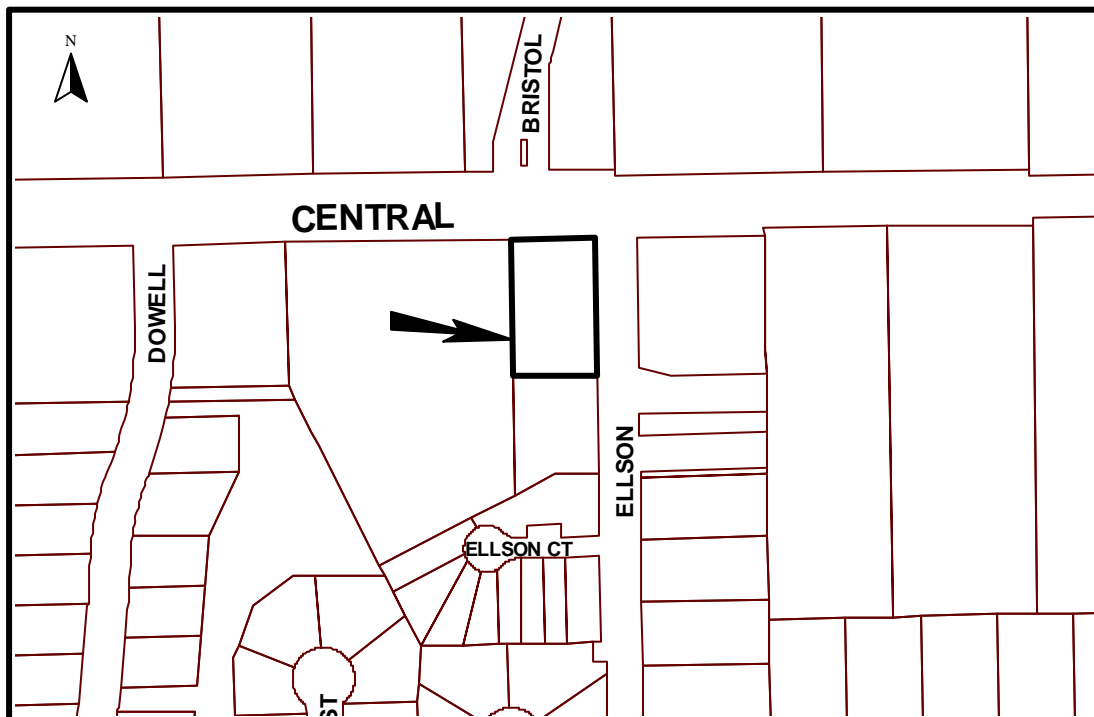
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, without access onto Ellson Street, (7-2-1).

MAPD Staff Recommendations: Deny.

DAB Recommendations: Deny, (8-0).



Background: On December 14, 2004, the Wichita City Council approved ZON2003-66, which granted “LC” Limited Commercial zoning subject to Protective Overlay #136 on 4.74 acres located at the southwest corner of east Central Avenue and Ellson. The 4.74 acres was platted in 1990 as the New Life Christian Church Addition, followed by a lot split filed in 2003, to create a 1.19-acre “Tract B” on the eastern 135 feet of the 4.74 acres (see site plan attached). It is the northern 220 feet of Tract B, which is .68 acre in size that is the subject of this application. The southern approximately 150 feet of “Tract B” is not part of the application and is platted a floodway reserve.

PO #136 included a list of prohibited uses that included a “car wash.” The applicant is seeking to amend PO #136 to delete “car wash” as a prohibited use and to obtain approval of a Conditional Use to permit a “car wash” in the “LC” zoned application area. The proposed car wash is to set on the northern 220 feet of the application area. The site plan submitted by the applicant indicates the eight-bay car wash would be located north to south, with access off of Central Avenue and Ellson Street. Two of the bays would contain automatic washers with dryers. Queuing is to be east to west. The vacuum islands are to be located along Ellson Street with 12 parking stalls. None of the wash bays are proposed to be located within the platted 30-foot setback. However, the 12 drying stalls and the vacuum islands located along Ellson are located within a platted setback. (It is Planning staff’s understanding that drying stalls are considered by the Office of Central Inspection to be structures and cannot be located within a platted building setback. To develop the site as shown, the platted setback would need to be vacated.) A five-foot landscape strip is to be located along Ellson, along Central Avenue and along the west property line.

Property to the west is developed as a church and zoned “LC” Limited Commercial; to the north is a mix of “LC” and “SF-5” Single-family Residential zoning that is developing retail and residential reserve areas; to the east is “SF-5” zoning developed as residences; and to the south is “LC” and “TF-3” Two-family Residential zoning that is developed with residences.

Analysis: District Advisory Board II reviewed this request on April 3, 2006 and recommended denial (8-0). DAB members expressed concern with potential negative effects the car wash could have on nearby residences. The Metropolitan Area Planning Commission (MAPC) reviewed this request on April 6, 2006 and recommended approval (7-2-1), subject to conditions. A letter of opposition from the Ellson Court Homeowners Association has been received. This Homeowners Association was concerned about increased traffic, reduction in property values and potential environmental impacts from soap and chemical runoff from fugitive wash and rinse waters. Protests do not exceed 20 percent. Among the conditions of approval are: the project is not to have access to Ellson; the church and the car wash shall share a Central Avenue access point and landscaping per code shall be installed. In addition to the conditions of approval recommended at the April 6, 2006 MAPC meeting, the existing conditions not modified by the MAPCs recent action contained in Protective Overlay #166 shall continue to be effective.

Financial Considerations: None.

Legal Considerations: The ordinance and resolution have been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve both the modification to Protective Overlay #136 and the Conditional Use request for a car wash, subject to the recommended conditions;
2. Return the application to the MAPC for reconsideration;
3. Take other appropriate action.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Agenda Item No. 30

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0498

TO: Mayor and City Council

SUBJECT: ZON2006-00010 – Zone change from “SF-5” Single-family
Residential to
“TF-3” Two-family Residential. Generally located northwest of
Hoover Rd. and 8th Street North. (District VI)

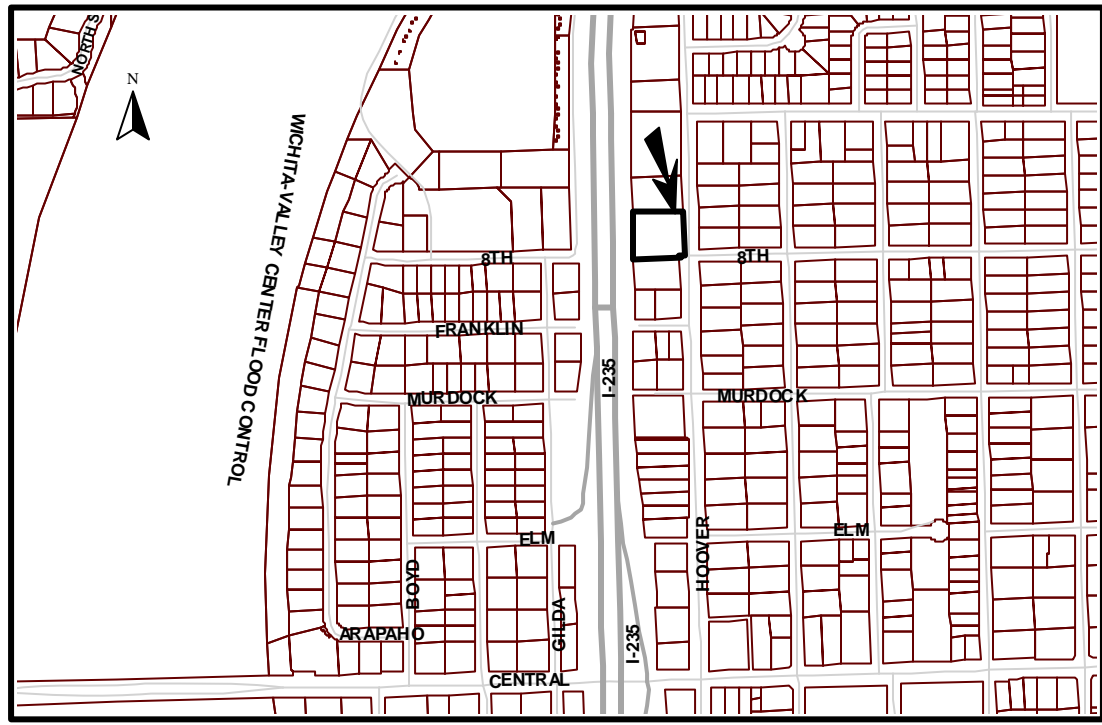
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, (10-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Approve, (8-2).



Background: The application area is a vacant unplatted lot, located west of Hoover Rd. and north of 8th Street North, along the east side of I-235. The 1.13-acre site is zoned “SF-5” Single-family Residential, and the applicant requests “TF-3” zoning to allow for duplex development.

Property north, south and east of the site is zoned “SF-5” Single-family Residential and developed with single-family residences or vacant. West of the site is I-235, with multi-family zoning and uses west of the freeway. Several “TF-3” Two-family residential properties are in the general neighborhood, including five duplexes approximately 800 feet south of the application area on Hoover. An “LI” Limited Industrial zoned manufacturing facility exists approximately 500 feet north of the site on Hoover Rd. This portion of Hoover Rd. is a paved, local street; the site has easy access to both Central and I-235.

Analysis: DAB VI heard this request on April 3, 2006 and no citizens spoke in opposition to the zone change request. DAB VI members had questions regarding parking and nearby duplex developments. The DAB recommended approval of the request by a vote of 8-2. MAPC heard this request on April 6, 2006 and no citizens spoke in opposition to the zone change request. The action of the MAPC was to approve 10-0. Several surrounding residential property owners filed protest petitions, amounting to 76 percent of the protest area, requiring a governing body $\frac{3}{4}$ majority override to approve the zone change request.

Financial Considerations: None.

Legal Considerations: The resolution has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change subject to platting within one year; instruct planning staff to forward the ordinance for first reading when the plat is forwarded to the City Council, instruct staff to withhold publication until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission’s recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2006-00010

Request for Zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential, on property described as:

The South 198 feet of the East 257.7 feet of the North Half of the Northeast Quarter of the Southeast Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located northwest of Hoover and 8th Street North.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, _____

CITY OF WICHITA

Carlos Mayans - Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form:

Gary E. Rebenstorf, City Attorney

Agenda Item No. 31

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No.06-0499

TO: Mayor and City Council Members

SUBJECT: DR2005-18: South Central Neighborhood Plan (Districts I and III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

Recommendation: Adopt the South Central Neighborhood Plan.

Recommendation: Adopt the South Central Neighborhood Plan.

Background: The South Central Neighborhood is bound by Kellogg on the north, the Arkansas River on the south and west, and Washington and the railroad tracks, from Pawnee to the Arkansas River, on the east. In 1995, a plan for the South Central Neighborhood entitled A Revitalization Plan for the South Central District was prepared but was never formally adopted.

Although the 1995 Plan was never formally adopted, leaders in the South Central Neighborhood remain committed to many of the strategies contained in the plan. Community leaders of the South Central Improvement Alliance and the South Central Progressive Neighborhood Association worked with City staff in 2000, and their work resulted in the collection of significant data, which community leaders used to develop updated strategies.

In 2005, community leaders presented these recommendations to the City and requested that the 1995 Plan be revisited and updated. As a result, on September 13, 2005, the City Council directed staff to update the 1995 Plan and authorized the City Manager to appoint a steering committee to guide the plan update.

Nine Steering Committee meetings and four neighborhood association meetings were held to review and update the Plan. The South Central Neighborhood Steering Committee feels that they have developed a plan that has broad-based neighborhood support, support from the neighborhood associations, and support from City officials.

The South Central Neighborhood Plan presented to the City Council outlines formal policy, which is proposed to be adopted as an amendment to The Wichita-Sedgwick County Comprehensive Plan, in order to guide long-term redevelopment and revitalization efforts in the South Central Neighborhood. The Plan was reviewed and unanimously endorsed by the District Advisory Board for District III on March 1, 2006, by the District Advisory Board for District I on March 6, 2006, and by the Metropolitan Area Planning Commission on April 20, 2006.

Analysis: The South Central Neighborhood Plan outlines the community's vision of what the South Central Neighborhood will be like in 2030. This vision is based upon an assessment of the neighborhood's top issues and the changes desired to address those issues. The following goals are identified to accomplish this vision:

1. Strengthen citizen involvement
2. Improve the visual appearance of the neighborhood
3. Improve neighborhood safety
4. Improve neighborhood infrastructure
5. Promote the unique character and historical significance of the neighborhood
6. Increase homeownership
7. Improve existing housing stock
8. Preserve the character of residential areas
9. Promote economic opportunities
10. Reduce the negative impact of incompatible businesses
11. Increase education and employment opportunities for residents
12. Increase recreational opportunities
13. Promote the river as a community destination
14. Increase use of existing neighborhood facilities

A total of 36 implementation initiatives are identified in the Plan. The implementation initiatives detail the specific objectives and strategies to achieve the Plan's goals. Key initiatives that are important to the overall success of the neighborhood are identified. Each initiative is identified as short-term, mid-term and long-term, which estimates when the initiative should be started. Each initiative is assigned a lead organization that will be responsible for coordinating and ensuring its implementation.

Alternatives: Two alternatives are available to the City Council now that the MAPC has adopted the South Central Neighborhood Plan as an amendment to The Wichita-Sedgwick County Comprehensive Plan:

- a) Approve first reading of the Ordinance adopting the South Central Neighborhood Plan as an amendment to the Comprehensive Plan;
- b) Others actions deemed appropriate by the City Council.

Financial Considerations: Adopting the South Central Neighborhood Plan involves no commitment of funding; however, the Plan identifies improvements needed in the neighborhood (e.g., lighting, sidewalks, parks, code enforcement, etc.) that, if implemented, could total millions of dollars in expenditures. These improvements could potentially be funded from several sources, including federal grants and City funds. Funding decisions associated with each implementation initiative will receive separate approval, and the decision will be based, in part, on a detailed cost-benefit analysis.

Legal Considerations: The MAPC, in accordance with Kansas state statutes, held a public hearing for the proposed South Central Neighborhood Plan on April 20, 2006, with the required notice of public hearing published in the official City newspaper on March 30, 2006. The MAPC approved a resolution adopting the Plan as an amendment to The Wichita-Sedgwick County Comprehensive Plan. The adopting Ordinance has been reviewed and approved as to form.

Recommendations/ Actions: Adopt the South Central Neighborhood Plan as an amendment to The Wichita-Sedgwick County Comprehensive Plan and approve first reading of the Ordinance.

Agenda Item No. 32

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0500

TO: Mayor and City Council

SUBJECT: ZON2006-00009 – Zone change from “SF-5” Single-family
Residential to
“LC” Limited Commercial. Generally located approximately 900 feet
south of Central on the west side of Tyler Rd. (District V)

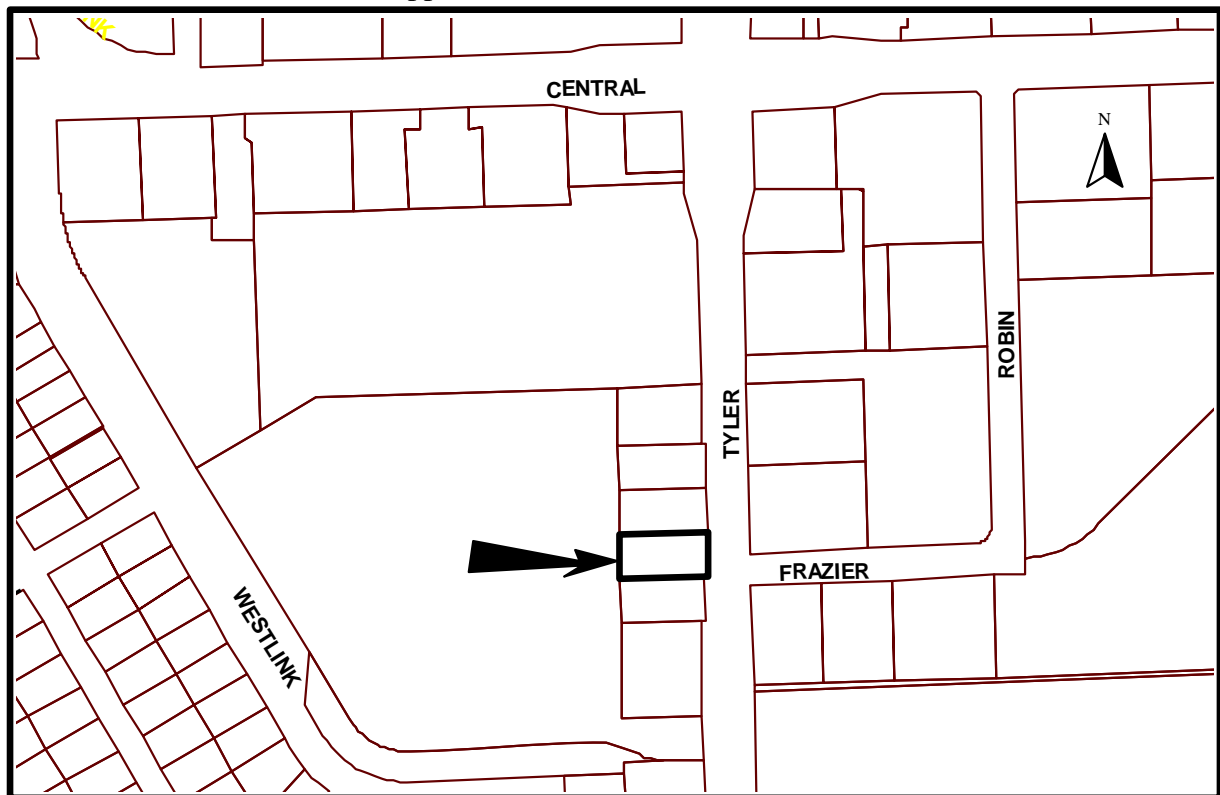
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations (10-0).

MAPD Staff Recommendations: Approve, subject to platting within one year.

DAB Recommendations: Not applicable.



Background: The applicant requests a zone change from “SF-5” Single-family to “LC” Limited Commercial on a 0.41-acre unplatted tract located approximately 900 feet south of Central on the west side of Tyler Rd. The subject property is currently developed with a single-family residence. The applicant proposes to convert the home to a small retail shop.

The surrounding area is characterized by commercial and multi-family residential uses with two single-family residences (including the subject property) remaining in the area. With the exception of these single-family residences (which are zoned “SF-5” Single-family), all of the property surrounding the site is zoned “LC” Limited Commercial. However, the residential lot to the north was approved for a rezone to “LC” Limited Commercial on October 19, 2000, subject to platting in one year. There has been a series of plat extensions granted with a current deadline of May 14, 2007. The property immediately west of the site is developed with apartments. The properties north of the site are developed with vehicle repair, retail, restaurant and bank uses. The properties east of the site across Tyler Rd. are developed with restaurant, self-storage warehouse, retail, bank, office and car wash uses. The properties south of the site are developed with multi-family and retail uses.

Analysis: There were no speakers in opposition to the request at the MAPC meeting on April 6, 2006. The MAPC voted unanimously to recommend approval of the zone change from “SF-5” Single-family to “LC” Limited Commercial, subject to platting within one year.

Financial Considerations: None.

Legal Considerations: The resolution has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change, subject to the recommended condition and place the ordinance on first reading; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Agenda Item No. 33

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0501

TO: Mayor and City Council

SUBJECT: CUP2006-07 Associated with (ZON2006-08) – Creation of DP296 Faber Community Unit Plan; zone change to “LC” Limited Commercial and “GO” General Office. Generally located at the northeast corner of 29th Street North and 119th Street West. (District V)

INITIATED BY: Metropolitan Area Planning Department

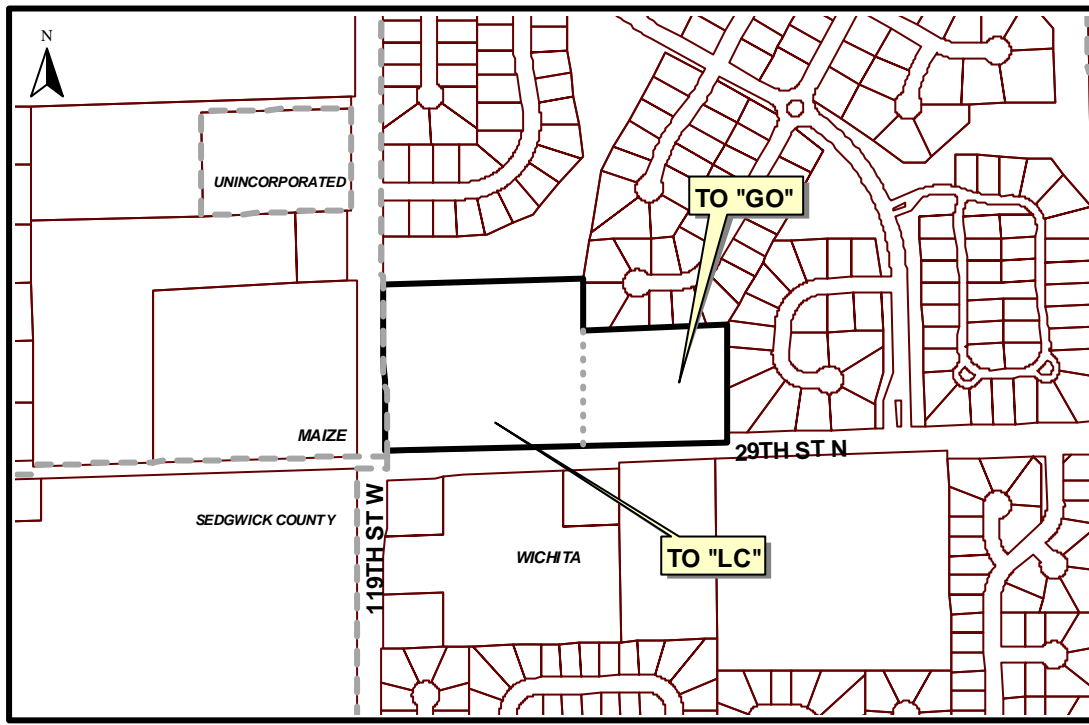
AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff conditions as modified by DAB recommendation, vote (10-0).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: The District V Advisory Board voted (8-0) to recommend approval of the request with the 35-foot setback and cross lot circulation for all parcels.

DAB Recommendations: The District V Advisory Board voted (8-0) to recommend approval of the request with the 35-foot setback and cross lot circulation for all parcels.



Background: The applicant proposes to create a commercial Community Unit Plan containing approximately 16.87± gross acres and 13.9± net acres with seven parcels located on the northeast corner of 29th Street North and 119th Street West.

Parcels 1-5 would be zoned “LC” Limited Commercial. Parcel 1, the largest parcel with 3.87 acres, would have access drives to 29th Street North and 119th Street West. Parcels 2, 3, 4 and 5 range in size from 1.14 acres to 1.58 acres and would front onto the arterial streets. Prohibited uses for Parcels 1-5 would be: adult entertainment establishment, group residential, correctional placement residence, multi-family residential uses, hotels and motels, wireless communication facilities, recycling stations, animal care facilities, private clubs, taverns and drinking establishments, nightclubs, or sexually oriented businesses. In addition, no overhead doors or truck docks would be allowed within 200 feet of residential zoning or facing residential zoning. Parcels 1 and 2, the parcels that are closest to the residential uses to the north and east, also would prohibit convenience stores, service stations, car washes, or drive-in or drive-through restaurants.

Parcels 6 and 7 are 2.32 acres in size each and would be zoned GO General Office. The parcels are located along 29th Street North and would allow those uses permitted in the GO district.

Setbacks are shown as 35 feet along the arterial streets and exterior property boundaries. Internal building setbacks are 15 feet, but would not be required if parcels are developed under the same ownership. An eight-foot masonry wall is shown along the north and east property lines within a five-foot wall easement. Maximum building height is 35 feet. Maximum building coverage and maximum gross floor area is requested at 30 percent. A maximum of three buildings are requested for Parcels 1, 6 and 7, and one building for Parcels 2-5.

Each parcel would be allowed monument-type signs with a maximum height of 20 feet for Parcels 1-5, reduced to 12 feet for the northern 50' of Parcel 2 and all of Parcels 6 and 7. Maximum sign area for Parcel 1 would be 200 square feet for each street frontage, and 0.8 times linear arterial street frontage for Parcels 2-5 (200 square feet maximum). Parcel 6-7 would be 0.5 times linear street frontage (75 square feet maximum), with all ground signs spaced 150 feet apart. The proposed signage would exceed the amounts allowable under the City of Wichita Sign Code. Portable and off-site signs and signs with flashing or moving lights are prohibited. Window displays would be limited to 25% of window area on Parcels 1-5 and prohibited on Parcel 6-7; signs on the rear of buildings would be prohibited.

Buildings would have uniform architectural compatibility of character, color, texture and materials, and would use earth-tone colors predominately; exterior walls facing residential would not be metal siding. Parking lots would have similar or consistent lighting elements, limited to 24 feet in height except that within 50 feet of residential zoning, lighting would be reduced to 14 feet. The parcels would share a similar landscape palette. A site plan would be required to assure internal cross lot circulation, joint access and smooth traffic flow. A pedestrian connectivity would be provided with arterial sidewalks and between buildings onsite.

The property to the north and east is being developed as a single-family subdivision, The Fontana Addition. The property to the south is approved for a 12-acre community unit plan, DP-235, Westridge CUP zoned LC and NR Neighborhood Retail and is undeveloped. The property to the east of the CUP is zoned SF-5 Single-family Residential and owned by the Catholic Diocese; it could be developed with institutional uses. The property to the northwest is owned by the City of Maize for park and utility uses. The property to the southwest is zoned SF-20 Single-family Residential and is in agricultural use.

Analysis: At the District V Advisory Board meeting held April 4, 2006, the board voted (8-0) to approve subject to staff recommendations with a 35-foot building setback on the north and east property lines and cross lot circulation for all parcels. Staff recommendation was for a 50-foot setback on the portion of the CUP directly abutting the lots platted for single-family use. The agent requested it be reduced to 35 feet (which meets CUP minimum standards) since the developer of the single-family area and the commercial development had worked together to design the CUP and no residences are constructed on the lots at this time. DAB requested an additional provision to require cross-lot circulation among the parcels. No citizens were present to speak on the proposal.

At the MAPC meeting held April 6, 2006, MAPC voted (10-0) to approve subject to staff recommendation as modified by the recommendations of the District V Advisory Board. No citizens were present to speak on the proposal. No protests have been received.

The recommendation is that the application be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2006-08) to LC Limited Commercial and GO General Office subject to platting of the entire property within one year;

B. APPROVE the Community Unit Plan (DP-296), subject to the following conditions:

1. The applicant shall guarantee an eastbound left turn center lane and a westbound right-turn decel lane to the full movement opening on 29th Street North at time of platting.
2. Change General Provision 6A: Parcel 1 and Parcels 2-5 maximum size of 150 square feet. Parcel 6-7 (Maximum size as permitted in GO district by City of Wichita Sign Code).
3. Change General Provision 17 as follows: (1) edit Section III-D.6.0 to read Section III-D.6, (2) remove the restriction on group homes, and (3) add a restriction to prohibit safety service, pawn shops and storage, outdoor.
4. Cross-lot circulation shall be required between all parcels.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
8. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-296) includes special conditions for development on this property.
9. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Financial Considerations: None.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions: 1. Adopt the findings of the MAPC and approve the zone change subject to platting within one year and approve the CUP; instruct the Planning Department to forward the ordinance for first reading when the plat is forwarded to City Council; or

2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Agenda Item No. 34

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0502

TO: Mayor and City Council Members

SUBJECT: A06-09R Request by Dennis Schoenebeck, of the Young Men's Christian Association of Wichita Kansas, to annex land generally located northwest of the intersection at 21st Street North and 135th Street West. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 49.09 acres of land generally located northwest of the intersection at 21st Street North and 135th Street West. The annexation area abuts the City of Wichita to the south. The property owner has developed a YMCA on the subject property.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 49.09 acres of property currently zoned "SF-20" Single-Family Residential and "LC" Limited Commercial, which upon annexation the "SF-20" Single Family Residential portion of the property will convert to "SF-5" Single Family Residential. Property to the north, east, south and west is zoned "SF-20" Single-Family Residential. Property to the east is developed with 10-12 residential housing units. Property to the north, south and west is primarily agricultural with a few scattered residential units.

Public Services: Water and sewer has been petitioned for and installed on the subject property. There is a 24" water line in 21st Street North and 8" water lines within easements on the subject property. There is a 21" sewer line in 135th Street and 8" sewer lines in easements on the subject property.

Street System: The subject property borders 21st Street to the south and 135th Street West to the east, both of which are paved, two-lane roads. The 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have scheduled the majority of 135th Street, between 21st Street North and Harry, to be widened and reconstructed; which lies east of the subject property. The Sedgwick County Capital Improvement Program 2006-2010 does not call for improvements near the proposed annexation site.

Public Safety: Fire service to this site can be provided by the City of Wichita within nine (9) to ten (10) minute approximate response time from City Station No. 16, located at 1632 North Tyler Street. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 North Elder.

Parks: The West Meadows Park, a 1.5-acre park, is located approximately 2 miles to the southeast of the subject property and contains a tennis courts, a basketball court and a children's play area. The Swanson Park, a 93-acre park, is located approximately 3 miles to the southeast of the subject property and contains a nature trail and a parking area. According to the 1996 Parks and Open Space Master Plan, a potential future park site has been proposed to the east of the subject property. In addition, an existing pathway runs along 21st Street North to the south of the property.

School District: The annexation property is part of the Unified School District 267 (Renwick School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is \$1,138,500 with a total assessed value of \$284,625. Since the YMCA is a non-profit organization, the property is tax exempt.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A06-09)

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District V respectively:

A tract of land in the South Half of the Southeast Quarter of Section 2, township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, described as follows: Beginning at the southeast corner of said Southeast Quarter; thence S 88°37'28" W on a Kansas South Zone Grid Bearing along the south line of said Southeast Quarter, 1610.93 feet; thence N 00°43'52" W, parallel with the east line of said section, 609.35 feet; thence S 88°37'28" W, parallel with the south line of said section, 308.47 feet; thence N 00°43'52" W, parallel with the east line of said section, 704.11 feet; thence N 88°33'52" E, along the north line of the South Half of said Southeast Quarter, 1919.42 feet to the sixteenth corner on the east line of said Southeast Quarter; thence S 00°43'52" E, along the east line of said Southeast Quarter, 1315.48 feet to the point of beginning, except that part designated as 21st Street North and as 135th Street West.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to form:

Gary E. Rebenstorf

Director of Law

Agenda Item No. 35

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0503

TO: Mayor and City Council Members

SUBJECT: A06-12R Request by Robert Noller, of Wichita United Methodist District Union, Inc., to annex land generally located southwest of 135th Street West and 21st Street North. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Recommendation: Place the annexation ordinance on first reading.

Background: The City has received a request to annex 22.38 acres of land generally located southwest of 135th Street West and 21st Street North. The annexation area abuts the City of Wichita to the south. The anticipated development of this property is unknown at this time.

Analysis:

Land Use and Zoning: The proposed annexation consists of approximately 22.38 acres of property currently zoned "SF-20" Single-Family Residential, which upon annexation will convert to "SF-5" Single-Family Residential. Property directly to the north, east and west is zoned "SF-20" Single-Family Residential and is developed with a few single-family houses and outbuildings, but is primarily agricultural in nature. Property to the south of the subject property was recently annexed on February 16, 2006, and is zoned as "SF-5" Single-Family Residential. Property to the south is also agricultural in nature at this time, but the property owner anticipates that 244 single-family residential units will be developed within the next five years. The property to the northeast of the subject property is zoned "LC" Limited Commercial, but is agricultural in nature at this time.

Public Services: There is an existing 24" water line across approximately half of the north frontage along 21st Street North from which water service could be extended to the subject property. Sewer service would need to be extended from a 21" line in 135th Street, south of 21st Street, which is planned for construction later this year or depending on elevations and slopes, extended from a future 21" line that is proposed along the Dry Creek Tributary.

Street System: The subject property borders 21st Street to the north, which is a paved, two-lane road. The 2006 Transportation Improvement Program and the City of Wichita Capital Improvement Program (CIP) 2005-2014 have scheduled the majority of 135th Street, between 21st Street North and Harry, to be widened and reconstructed; which lies east of the subject property. The Sedgwick County Capital Improvement Program 2006-2010 does not call for improvements near the proposed annexation site.

Public Safety: Fire services to this site can be provided by the City of Wichita within nine (9) to ten (10) minute approximate response time from City Station No. 16, located at 1632 North Tyler Street. Upon annexation, police protection will be provided to the area by the Patrol West Bureau of the Wichita Police Department, headquartered at 661 North Elder.

Parks: The West Meadows Park, a 1.5-acre park, is located approximately 2 miles to the southeast of the subject property and contains a tennis courts, a basketball court and a children's play area. The Swanson Park, a 93-acre park, is located approximately 3 miles to the southeast of the subject property and contains a nature trail and a parking area. According to the 1996 Parks and Open Space Master Plan, a potential future park site has been proposed to the northeast of the subject property. In addition, a pathway has been proposed that would run to the west of the subject property along a waterway that would connect to an existing pathway along 21st Street North. Another pathway has been proposed to the east of the subject property along 135th Street West.

School District: The annexation property is part of the Unified School District 267 (Renwick School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the 2030 Wichita Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands, according to County records, is \$4,790 with a total assessed value of \$1,437. Using the current City levy ($\$31.828/\$1000 \times$ assessed valuation), this roughly yields \$45 in City annual tax revenues for the property. The future assessed value of this property will depend on the type and timing of any other developments on the proposed annexation property and the current mill levy. At this time, the anticipated development of the subject property is unknown.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, et seq.

Recommendations/Actions: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

ORDINANCE

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A06-12)

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District V respectively:

Beginning at a point 60.0 feet south and 441.92 feet east of the Northwest corner of the Northeast Quarter of Section 11, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence east parallel with the North line of said Northeast Quarter of Section 11, a distance of 431.21 feet; thence easterly a distance of 200.73 feet to a point 75.0 feet south and 230.64 feet west of the Northeast corner of the West Half of the Northeast Quarter of said Section 11; thence east parallel with the North line of said Northeast Quarter, a distance of 230.64 feet to a point in the East line of the West Half of said Northeast Quarter; thence south along said East line of the Northwest Quarter of the Northeast Quarter, a distance of 1235.0 feet; thence west parallel with the North line of said Northeast Quarter, a distance of 627.06 feet; thence north a distance of 450.0 feet to a point 680.95 feet east of the West line of said Northeast Quarter; thence west parallel with the North line of said Northeast Quarter, a distance of 238.40 feet; thence north a distance of 800.0 feet to the point of beginning.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void, then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this _____.

CITY OF WICHITA
Carlos Mayans, Mayor

ATTEST:
Karen Sublett, City Clerk
Approved as to form:
Gary E. Rebenstorf, Director of Law

Agenda Item No. 36

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0504

TO: Wichita Housing Authority Board Members

SUBJECT: Disposition Plan – 1631 E. 17th Street

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (non-consent)

Recommendation: Review and approve the submission of the Disposition Application to the U.S. Department of Housing and Urban Development for the sale of 1631 E. 17th Street, adopt the resolution, and provide the necessary signatures.

Background: When the Wichita Housing Authority (WHA) Building was constructed at 1631 E. 17th Street in 1969 it was used as the leasing offices and maintenance shop for the operation of 191 scattered site units located in the northeast quadrant of Wichita, known as the KS16P004002 Development. The building was located in the heart of the development and its utility was appropriate for the size and proximity to the Wichita Housing Authority's properties.

In 1979, the WHA constructed the 100 scattered site KS16P004004 Development that was located in south Wichita. Subsequent to that, the WHA added 8 more developments to its rental-housing inventory. The WHA occupied the offices on 17th Street from 1969 through 1983. At that point it was determined that it would be advantageous for the management office to be more centrally located to the overall WHA rental inventory of 575 rental units. After the property was vacated by the WHA, the Family Services Institute (FSI), Inc. began leasing the building from the WHA in 1988, on a triple-net lease basis. Deferred maintenance to the building currently needs to be addressed and in order to make the necessary mechanical improvements, FSI needs to have title to the property to borrow funds to make the repairs.

Analysis: The City of Wichita Housing Authority is required to obtain authorization from the Department of Housing and Urban Development, to sell a portion of a public housing development. The WHA has completed the disposition application in compliance with requirements of Section 18 of the United States Housing Act of 1937, as amended and 24CFR Part 970. A copy of the disposition plan is attached.

In particular, 24 CFR 970.9 provides that HUD may authorize the negotiated sale of property at less than fair market value for reasons found to be in the best interests of the WHA or the Federal Government, based on the commensurate public benefits to the community. A professional appraisal was performed on the property at 1631 E. 17th Street and the appraisal value was estimated at \$175,000.

The City of Wichita Housing Authority staff has determined that the sale of the Wichita Housing Authority Building at a negotiated price, which is less than fair market value, is in its best interests due to the positive benefits to the low-income neighborhood and surrounding area such sale will ensure. Therefore, the WHA is negotiating the sale of the Wichita Housing Authority Building to the Family Services Institute (FSI), Inc., in the amount of \$50,000.

FSI is a non-profit organization that seeks to strengthen the community through the development of stronger families. From its current location, FSI provides an array of vital services for at-risk children and families of all backgrounds and racial groups from the immediate community and throughout Sedgwick County as well. It provides after school and weekend workshops for children, counseling and advocacy services for children having trouble in school, and it operates an emergency food pantry. It acts as the conduit to assemble and bring together groups of community residents to work with others on issues affecting the community, and also oversees a youth employment program.

The FSI has a need to keep costs at a minimum to remain accessible to the community. The purchase of the Wichita Housing Authority Building is intended to help secure its position of being centrally located within the service community while placing the FSI in a position to grow and expand. Some costs on a sliding scale will be charged to families who can afford to pay for counseling and advocacy services to help defray associated costs, however the FSI will not seek to make a profit from services.

The WHA Building has been in excess to the needs of the WHA and the disposition and sale will not interfere with the continued operation of the WHA or the KS16P004002 development. Due to zoning restrictions, size, quality of construction and general location of the building in a residential area, the highest and best use is for the continued use of the building as a community service facility.

Staff is supportive of the Family Services Institute and the services that they provide and believe that the sale of the property to the FSI will prove to be of continued benefit to the community.

Legal Considerations: The application has been prepared in accordance with 24 CFR Part 970.

Financial Considerations: Proceeds from the sale of the property will be deposited to the Public Housing Operating Fund to defray the costs related to the administration and maintenance of Public Housing rental units.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board review and approve the submission of the Disposition Application to the Department of Housing and Urban Development for the sale of 1631 E. 17th Street, adopt the resolution, and authorize the necessary signatures.

A RESOLUTION FOR THE DISPOSITION
OF 1631 E. 17TH STREET
WICHITA HOUSING AUTHORITY BUILDING

WHEREAS, The Department of Housing and Urban Development published 24 CFR Part 907 in the Federal Register requiring housing authorities to submit applications for the disposition of public housing real estate;

WHEREAS, The City of Wichita Housing Authority recognizes that the building's utility to the Wichita Housing Authority is no longer viable;

WHEREAS, The sale of the former Wichita Housing Authority Building to the Family Services Institute, Inc. is in the public's best interest due to the positive benefits to the low-income neighborhood and surrounding area; and

WHEREAS, The Wichita Housing Authority Board requests to sell the Wichita Housing Authority Building to the Family Services Institute, Inc. for \$50,000, which is an amount less than the appraised value.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF WICHITA HOUSING AUTHORITY AS FOLLOWS:

Acting on behalf of the City of Wichita Housing Authority Board, as its Chairperson, I authorize the submission of the 1631 E. 17th Street Disposition Plan.

CITY OF WICHITA
HOUSING AUTHORITY BOARD

ATTEST:

Karen Sublett
City Clerk

CITY OF WICHITA
Carlos Mayans
Chairperson and Mayo
Date

Agenda Item No. 37

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0505

TO: Wichita Housing Authority Board Members

SUBJECT: Revision of the 2005 Capital Fund Program Grant

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (non-consent)

Recommendation: Approve the revision of the 2005 Capital Fund Grant Budget.

Background: Since 1992, the Department of Housing and Urban Development (HUD) has awarded modernization funds to the City of Wichita Housing Authority Public Housing Division, through the Comprehensive Grant Program. Beginning in 2000 the Capital Fund Program (CFP) was initiated for the purposes of updating or rehabilitating rental units and management systems in the Public Housing Division. Housing authorities' share of the national allocation, is determined by a calculation using various characteristics of each housing authority. The 2005 Wichita Capital Fund Program was funded at \$1,028,183.

Analysis: HUD regulations allow a housing authority to revise its approved annual budget due to construction and administrative cost changes, HUD Notices, disasters, and emergencies outside the control of the housing authority. The revisions currently being proposed are required to provide funds for increased indirect administrative costs charged by the City Finance Department, to the Public Housing Operating Fund. The 2005 Public Housing Operating Fund indirect administration charge was \$109,228. The 2006 Public Housing Operating Fund indirect administration charge was raised to \$166,850, an increase of 53%. The indirect charges are calculated based on an OMB A-87 Cost Allocation Plan conducted in 2004 by Maximus, Inc.

The proposed revision transfers funds from the Capital Fund to the Public Housing Operating Fund, which increases fund account to the maximum amount allowable (\$200,000).

Legal Considerations: HUD regulations allow for the transfer which is being proposed.

Financial Considerations: The additional transfer of funds reduces the amount available for the modernization of Public Housing rental units.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board approve the revision of the 2005 Capital Fund Grant Budget.

Agenda Item No. 38

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0506

TO: Wichita Housing Authority Board Members

SUBJECT: Admissions & Continued Occupancy Policy (ACOP)

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Review and approve revisions to the Admissions and Continued Occupancy Policy for administration of the Public Housing Program.

Background: Public housing authorities are required by U.S. Department of Housing and Urban Development (HUD) regulations, to adopt and maintain admission, occupancy and waiting list policies, and to revise them as necessary. The last time that the Wichita Public Housing revised its Admissions & Continued Occupancy Policy (ACOP) was on September 13, 2005.

Analysis: The Public Housing staff desires to revise the ACOP to incorporate its current administrative Community Service Policy into the ACOP. Several additional amendments are also proposed to add and clarify language to agree with the addition of the Community Service Policy. The amendments to the ACOP are attached.

Financial Considerations: None.

Legal Considerations: None.

Recommendations/Actions: It is recommended that the Wichita Housing Authority Board review and approve revisions to the Admissions and Continued Occupancy Policy for administration of the Public Housing program.

Section II

B. The applicant must be income eligible. The applicant's total family annual income as defined in Section XI, shall not at the time of admission, exceed the HUD approved amounts posted on the Wichita Housing Authority official bulletin board(s). An applicant must head a household where at least one member of the household is either a citizen or eligible non-citizen (24 CFR Part 5, Subpart E) and must provide a Social Security number for all family members age 6 and older. An applicant must not have any outstanding debts to the Wichita Housing Authority or any other public housing authority.

Section III

2. Verified information will be analyzed and a determination will be made with respect to the following:

a. Eligibility of applicant with respect to back monies owed to the Wichita Housing Authority or previous non-compliance with a federally subsidized rental assistance program;

Section VIII

C. Initial Certification and Reexamination Procedures

At the initial leasing certification and least annually the annual recertification, the Public Housing resident is required to provide accurate and current information relating to the household. The resident will be interviewed by Public Housing Property Managers and the head of household shall complete and sign an application for continued occupancy and other forms required by HUD.

1. Approximately 60 to 90 days before the annual recertification, the Authorization for Release of Information (Form HUD-9886) must be signed by all adult (18 years and older) family members.

2. At the time of reexamination the head of household and spouse will be required to sign the Application/Tenant Certification, Disposal of Assets, and Federal Privacy Act Statement. (See Section IV of this policy).

3. Employment and income data, assets, full-time student status, medical expenses (elderly families only), child care expense, family type (elderly, handicapped or disabled status (unless receiving income from an agency where such status is required)), a larger unit that occupancy standards and eligible student – alien status (when applicable) handicapped assistance expenses must be verified, documented and placed in the tenant's folder. Acceptable forms of verification are detailed in Appendix 1.

4. In accordance with Section 512 of the Quality Housing and Work Responsibility Act of 1998, HUD regulations, HUD notices and HUD directives, non-exempt households will be required to provide to the Public Housing written third party documentation that each adult resident of Public Housing contributed 8 hours per month of community service or participated in an economic self-sufficiency program for 8-hours per month or eight (8) hours per month of combined activities of community service and participation in a self-sufficiency program. Public Housing staff members shall verify participation in community service and self-sufficiency programs. Community service and self-sufficiency programs shall be approved by Public Housing prior to the resident's participation. For the purposes of the community service requirement, work activities are defined in Section 407(d) of the Social Security Act [42 U.S.C. 607(d)]. An exempt work activity shall not include employment less than an average of fifteen hours (15) per week for each monthly period.

Public Housing is not permitted to renew the lease or continue assistance if non-exempt residents fail to comply with the service requirement or Agreement to Cure Community Service Noncompliance. All Public Housing residents are responsible to notify Public Housing in writing and provide documentation that they qualify for an exemption, if they claim to be exempt from the Community Service requirement, and sign an exemption certification. A licensed physician must certify disability exemptions or the need for a care taker and the date of exemption will be effective on the date the certification is signed by the physician. Retroactive certifications or exemptions will not be permitted.

It is the responsibility of non-exempt residents to complete the 8 hour per month requirement. The community service and self-sufficiency requirement shall not be interpreted by Public Housing as a 96 hour per year requirement and a resident should complete the requirement at a rate of 8 hours per month to avoid a potential noncompliance should a total disability occur.

In the event a member of a household executes an Agreement to Cure Community Service Noncompliance with Public Housing granting the household a one-year lease renewal and another member of the household, due to an exemption status change, fails to complete the 8-hour per month requirement, the ending date of the executed Agreement to Cure Community Service Noncompliance will be final with no further extensions. It shall be the responsibility of any non-exempt resident to complete the required service hours without any additional agreements and the original terms of the Agreement to Cure Community Service Noncompliance shall be binding upon the entire household.

In the event a noncompliant resident vacates a Public Housing unit to avoid the non-renewal of lease agreement and termination of assistance for the remaining household, the noncompliant resident will not be able to reoccupy any Public Housing unit for a period of at least 3 years subsequent to his/her vacate date.

5. Third party verification is preferred. Oral third party verifications are acceptable, if properly documented, and photocopying the verification documents when not prohibited by law (i.e., government checks) is acceptable. Public Housing may document that the verification documents were viewed by recording the document source, date, time, amount, etc.

XVII. COMMUNITY SERVICE AND SELF-SUFFICIENCY POLICY

In accordance with Section 512 of the Quality Housing and Work Responsibility Act of 1998 and HUD regulations, non-exempt adults (age 18 and over) will be required to provide to the Public Housing Division written third party documentation that each adult resident of Public Housing contributed eight (8) hours per month of community service, participated in an economic self-sufficiency program for eight (8) hours per month or eight (8) hours per month of combined activities of community service and participation in a self-sufficiency program. This is also a requirement of the Public Housing Lease Agreement.

An exempt adult is an adult household member who:

- Is age 62 or older;
- Has a disability that prevents him/her from being gainfully employed;
- Is the caretaker of a disabled person for at least 15 hours per week;
- Is employed in a work activity for at least 15 hours per week; or
- Is participating in a welfare to work or self sufficiency program.

The resident's Property Manager must approve any exemption with proper documentation.

The definition of a work activity, as mentioned above, includes:

- Unsubsidized employment;
- Subsidized private-sector or public-sector employment;
- Work experience, including work associated with the refurbishing of publicly assisted housing if sufficient private-sector employment is not available;
- On-the-job training;
- Job-search and job-readiness assistance;
- Community service programs;
- Vocational educational training;
- Job-skills training directly related to employment
- GED classes; or
- Satisfactory attendance in a secondary school or in a course of study leading to a certificate of general equivalence.

Community Service is volunteer work, which is being administered through the United Way of the Plains Volunteer Center. Service opportunities include, but are not limited to work with non-profit organizations such as Boy Scouts, Habitat for Humanity, Kansas African Museum, Kansas Foodbank, Mid-American All-Indian Center, Multiple Sclerosis Society, Salvation Army, United Methodist Urban Ministry, and Wichita Indochinese Center.

Public Housing staff shall verify participation in community service and self-sufficiency programs as a part of the annual recertification process. Noncompliant households will be notified of any noncompliance with the Community Service Requirement and the household's lease will terminate due to the nonrenewal of the annual lease term.

Agenda Item No. 39

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0507

TO: Wichita Housing Authority Board Members

SUBJECT: 2006 Utility Allowances - Public Housing Program

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Review and approve the 2006 utility allowances for the Public Housing Program.

Background: Housing Authorities are required by the Department of Housing and Urban Development (HUD) to annually review and make appropriate adjustments to the utility allowances provided for tenant furnished utilities. The allowances are subtracted from the tenant's Adjusted Gross Rent to provide the net amount payable to public housing authorities as rent. The allowances are based on actual rates and average consumption estimates, and are calculated for structure type based on the number of bedrooms. The Quality Housing and Work Responsibilities Act of 1998 requires annual review of utility allowances and if there has been a change (increase/decrease) of 10% or more in the bedroom size allowance, the allowance must be revised. HUD PHI Notice 93-40 states that housing authorities that choose to install air-conditioning shall assure that the cost of utilities attributable to air-conditioning, when the use is optional, shall be borne by the residents.

Analysis: Public Housing retained the South Central Kansas Economic Development District, Inc. (SCKEDD) to complete a utility bill allowance study using REM/Design software. The analysis, using updated natural gas, electric and water rates, prescribes that the allowances should be increased. The air-conditioning in Greenway and McLean Manor is provided by the WHA. The recommended utility allowances for Public Housing rental units beginning July1, 2006 are below.

Bedroom Size	Utility Allowance
Apartments	
One – Rosa Gragg	\$92.00
One – Bernice Hutcherson	91.00
One (Greenway and McLean Manor)	26.00
Two (Greenway and McLean Manor)	21.00

Houses	
Two	134.00
Three	158.00
Four	167.00
Five	235.00
Six	197.00

Financial Considerations: This a HUD required action. Approving the utility allowances for 2006 will affect the Housing and Community Services Department's financial position by decreasing rental income.

Legal Considerations: None

Recommendations/Actions: It is recommended that the Wichita Housing Authority Board review and approve the 2006 utility allowances for the Public Housing Program.

Agenda Item No. 40

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0508

TO: Wichita Housing Authority Board Members

SUBJECT: Family Self-Sufficiency Grant Application (All Districts)

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommended Action: Approve the application; approve the grant award upon receipt; and, authorize the necessary signatures.

Background: The Department of Housing and Urban Development (HUD) has issued a Notice of Funding Availability (NOFA) for continued funding of the Family Self-Sufficiency Program Coordinator positions and Homeownership Coordinator.

Analysis: HUD requires that Housing Authorities operate a Family Self-Sufficiency (FSS) program in order to receive additional Section 8 vouchers. Though it is a HUD requirement for Housing Authorities, participation by Section 8 voucher holders is voluntary. The advantage to the client is the program provides the opportunity for them to increase their income potential and eventually become independent of public assistance. The Family Self-Sufficiency and Homeownership Coordinators work with program participants to connect them with community resources such as job training, to help them achieve self-sufficiency. Many FSS participants have become homeowners through the Homeownership 80 program and/or the Housing Choice Voucher Homeownership program as a result of their participation.

Legal Considerations: HUD requires the Family Self-Sufficiency program.

Financial Considerations: The amount of the application is \$172,282, which covers the salary and fringe benefits of one Homeownership Coordinator and two Family Self-Sufficiency program coordinators, all of whom are currently employed.

Recommendation/Action: It is recommended that the Wichita Housing Authority Board approve the application; approve the grant award upon receipt; and, authorize the necessary signatures.

Agenda Item No. 41

City of Wichita
City Council Meeting
May 9, 2006

Agenda Report No. 06-0509

TO: Wichita Housing Authority Board Members

SUBJECT: Section 8 Housing Choice Voucher Administrative Plan Revisions

INITIATED BY: Housing and Community Services Department

AGENDA: Housing Authority (Consent)

Recommendation: Review and approve Administrative Plan revisions for the Section 8 Housing Choice Voucher Program.

Background: The U.S. Department of Housing and Urban Development (HUD) has identified required documents and practices for Section 8 Housing Choice Voucher programs, to include in their operational plans. These requirements must be met in order for Housing Authorities to apply for grants for new or continuation funding. The Governing Board of the Housing Authority must approve revisions to the Section 8 Administrative Plan before changes can be implemented.

Analysis: The Wichita Housing Authority has made necessary revisions and updates to its operating plans, to comply with HUD's requirements. In addition, other miscellaneous modifications have been made, to strengthen the Section 8 operational plans. Changes proposed with this action are summarized in Appendix 1 which is attached. In addition, pagination changes are listed in the attached Revision Sheet.

Financial Considerations: None.

Legal Considerations: Amendments are required or permitted in accordance to Rules and Regulations for Administration of Section 8 Housing Choice Voucher Program

Recommendations/Actions: It is recommended that the Wichita Housing Authority Board review and approve the revisions to the Section 8 Administrative Plan for the Section 8 Housing Choice Voucher Program.

REVISION SHEET
 For Housing and Community Services Department
 Wichita Housing Authority
 Section 8 Administrative Plan
 May 9, 2006

PAGE(S) REASON FOR CHANGE

i Adding Foreword Page explaining the Section 8 Administrative plan and Appendix 1 that lists documents applicable to employees, board and agents of Wichita Housing Authority
 13, 127 Change Appendix 1 to Appendix 2
 125, 126 Appendix 1 Outlining Types of Applicable documents to Wichita Housing Authority

Compliance with HUD and Local Government Mandates
 for Wichita Housing Authority Section 8 Housing Choice Voucher Program

The following table lists documents that meet HUD and local government program requirements, and apply to Wichita Housing Authority employees, officers, board members, contractors, and agent of the Wichita Housing Authority.

HUD Mandates	Applicable Plan Component
Certifications of Compliance with the PHA Plans and Related Regulations	5 Year and Annual Plans
State/Local Government Certification of Consistency with the Consolidated Plan	5 Year and Annual Plans
Fair Housing Documentation: Records reflecting that the PHA has examined its programs or proposed programs, identified any impediments to fair housing choice in those programs, addressed or is addressing those impediments in a reasonable fashion in view of the resources available, and worked or is working with local jurisdictions to implement any of the jurisdictions' initiatives to affirmatively further fair housing that require the PHA's involvement.	5 Year and Annual Plans
Consolidated Plan for the jurisdiction/s in which the PHA is located (which includes the Analysis of Impediments to Fair Housing Choice (AI))) and any additional backup data to support statement of housing needs in the jurisdiction	Annual Plan: Housing Needs
Most recent board-approved operating budget for the public housing program	Annual Plan: Financial Resources
Section 8 Administrative Plan	Annual Plan: Eligibility, Selection, and Admissions Policies
Approved or submitted public housing homeownership programs/plans	Annual Plan: Homeownership
Policies governing any Section 8 Homeownership program	Annual Plan: Homeownership
Any cooperative agreement between the PHA and the TANF agency	Annual Plan: Community Service & Self-Sufficiency
FSS Action Plan/s for public housing and/or Section 8	Annual Plan: Community Service & Self-Sufficiency

Local Government Mandates Applicable Plan Component
City of Wichita Personnel Manual Section 8 Administrative Plan
City of Wichita Administrative Regulation Section 8 Administrative Plan
Housing Choice Voucher Program Guidebook 7420.10G Administrative Plan
The ABCs of Shelter Plus Care Manual Administrative Plan
Code of Ethics Policy City of Wichita Personnel Manual Section 11

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